

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Lottery Law is amended by changing
5 Sections 3, 4, 5, 7.1, 7.6, 7.11, 9, 10, 10.1, 10.1a, 10.2,
6 10.6, 10.7, 12, 13, 14, 14.3, 19, 21, and 24 as follows:

7 (20 ILCS 1605/3) (from Ch. 120, par. 1153)

8 Sec. 3. For the purposes of this Act:

9 a. "Lottery" or "State Lottery" means the lottery or
10 lotteries established and operated pursuant to this Act.

11 b. "Board" means the Lottery Control Board created by this
12 Act.

13 c. "Department" means the Department of Revenue ~~the~~
14 ~~Lottery~~.

15 d. "Director" means the Director of Revenue ~~the Department~~
16 ~~of the Lottery~~.

17 e. "Chairman" means the Chairman of the Lottery Control
18 Board.

19 f. "Multi-state game directors" means such persons,
20 including the Superintendent ~~Director of the Department of the~~
21 ~~Lottery~~, as may be designated by an agreement between the
22 Division ~~Department of the Lottery~~ and one or more additional
23 lotteries operated under the laws of another state or states.

24 g. "Division" means the Division of the State Lottery of
25 the Department of Revenue.

26 h. "Superintendent" means the Superintendent of the
27 Division of the State Lottery of the Department of Revenue.

28 (Source: P.A. 85-183.)

29 (20 ILCS 1605/4) (from Ch. 120, par. 1154)

30 Sec. 4. The Department of the Lottery is established to
31 implement and regulate the State Lottery in the manner provided

1 in this Act.

2 In accordance with Executive Order No. 9 (2003), the
3 Division of the State Lottery is established within the
4 Department of Revenue. Unless otherwise provided by law, the
5 Division of the State Lottery shall be subject to and governed
6 by all of the laws and rules applicable to the Department.

7 (Source: P.A. 84-1128.)

8 (20 ILCS 1605/5) (from Ch. 120, par. 1155)

9 Sec. 5. The Division ~~Department of the Lottery~~ shall be
10 under the supervision and direction of a Superintendent
11 ~~Director of the Lottery~~, who shall be a person qualified by
12 training and experience to perform the duties required by this
13 Act. The Superintendent ~~Director~~ shall be appointed by the
14 Governor, by and with the advice and consent of the Senate. The
15 term of office of the Superintendent ~~Director~~ shall expire on
16 the third Monday of January in odd numbered years provided that
17 he or she shall hold ~~his~~ office until a ~~his~~ successor is
18 appointed and qualified.

19 Any vacancy occurring in the office of the Superintendent
20 ~~Director~~ shall be filled in the same manner as the original
21 appointment.

22 The Superintendent ~~Director~~ shall devote his or her entire
23 time and attention to the duties of the ~~his~~ office and shall
24 not be engaged in any other profession or occupation. The
25 Superintendent ~~He~~ shall receive such salary as shall be
26 provided by law.

27 (Source: P.A. 84-1128.)

28 (20 ILCS 1605/7.1) (from Ch. 120, par. 1157.1)

29 Sec. 7.1. The Department shall promulgate such rules and
30 regulations governing the establishment and operation of a
31 State lottery as it deems necessary to carry out the purposes
32 of this Act. Such rules and regulations shall be subject to the
33 provisions of The Illinois Administrative Procedure Act. The
34 Division shall issue written game rules, play instructions,

1 directives, operations manuals, brochures, or any other
2 publications necessary to conduct specific games, as
3 authorized by rule by the Department. Any written game rules,
4 play instructions, directives, operations manuals, brochures,
5 or other game publications issued by the Division ~~Department~~
6 that relate to a specific lottery game shall be maintained as a
7 public record in the Division's ~~Department's~~ principal office,
8 and made available for public inspection and copying but shall
9 be exempt from the rulemaking procedures of the Illinois
10 Administrative Procedure Act. However, when such written
11 materials contain any policy of general applicability, the
12 Division ~~Department~~ shall formulate and adopt such policy as a
13 rule in accordance with the provisions of the Illinois
14 Administrative Procedure Act. In addition, the Division
15 ~~Department~~ shall publish each January in the Illinois Register
16 a list of all game-specific rules, play instructions,
17 directives, operations manuals, brochures, or other
18 game-specific publications issued by the Division ~~Department~~
19 during the previous year and instructions concerning how the
20 public may obtain copies of these materials from the Division
21 ~~Department~~.

22 (Source: P.A. 86-433.)

23 (20 ILCS 1605/7.6) (from Ch. 120, par. 1157.6)

24 Sec. 7.6. The Board shall advise and make recommendations
25 to the Superintendent or the Director regarding the functions
26 and operations of the State Lottery. A copy of all such
27 recommendations shall also be forwarded to the Governor, the
28 Attorney General, the Speaker of the House, the President of
29 the Senate and the minority leaders of both houses.

30 (Source: P.A. 84-1128.)

31 (20 ILCS 1605/7.11) (from Ch. 120, par. 1157.11)

32 Sec. 7.11. The Division ~~Department~~ may establish and
33 collect nominal charges for promotional products ("premiums")
34 and other promotional materials produced or acquired by the

1 ~~Division Department~~ as part of its advertising and promotion
2 activities. Such premiums or other promotional materials may be
3 sold to individuals, government agencies and not-for-profit
4 organizations, but not to for-profit enterprises for the
5 purpose of resale. Other State agencies shall be charged no
6 more than the cost to the ~~Division Department~~ of the premium or
7 promotional material. All proceeds from the sale of premiums or
8 promotional materials shall be deposited in the State Lottery
9 Fund in the State Treasury.

10 (Source: P.A. 86-1220.)

11 (20 ILCS 1605/9) (from Ch. 120, par. 1159)

12 Sec. 9. The Superintendent ~~Director~~, as administrative
13 head of the ~~Division Department of the Lottery~~, shall direct
14 and supervise all its administrative and technical activities
15 and shall report to the Director. In addition to the duties
16 imposed upon him elsewhere in this Act, it shall be the
17 Superintendent's ~~his~~ duty:

18 a. To supervise and administer the operation of the lottery
19 in accordance with the provisions of this Act or such rules and
20 regulations of the Department adopted thereunder.

21 b. To attend meetings of the Board ~~Department~~ or to appoint
22 a designee to attend in his stead.

23 c. To employ and direct such personnel in accord with the
24 Personnel Code, as may be necessary to carry out the purposes
25 of this Act. The Superintendent may, subject to the approval of
26 the Director, use the services, personnel, or facilities of the
27 Department. In addition, the Superintendent ~~Director~~ may by
28 agreement secure such services as he or she may deem necessary
29 from any other department, agency, or unit of the State
30 government, and may employ and compensate such consultants and
31 technical assistants as may be required and is otherwise
32 permitted by law.

33 d. To license, in accordance with the provisions of
34 Sections 10 and 10.1 of this Act and the rules and regulations
35 of the Department adopted thereunder, as agents to sell lottery

1 tickets such persons as in his opinion will best serve the
2 public convenience and promote the sale of tickets or shares.
3 The Superintendent ~~Director~~ may require a bond from every
4 licensed agent, in such amount as provided in the rules and
5 regulations of the Department. Every licensed agent shall
6 prominently display his license, or a copy thereof, as provided
7 in the rules and regulations of the Department.

8 e. To suspend or revoke any license issued pursuant to this
9 Act or the rules and regulations promulgated by the Department
10 thereunder.

11 f. To confer regularly as necessary or desirable and not
12 less than once every month with the Lottery Control Board on
13 the operation and administration of the Lottery; to make
14 available for inspection by the Board or any member of the
15 Board, upon request, all books, records, files, and other
16 information and documents of his office; to advise the Board
17 and recommend such rules and regulations and such other matters
18 as he deems necessary and advisable to improve the operation
19 and administration of the lottery.

20 g. To enter into contracts for the operation of the
21 lottery, or any part thereof, and into contracts for the
22 promotion of the lottery on behalf of the Department with any
23 person, firm or corporation, to perform any of the functions
24 provided for in this Act or the rules and regulations
25 promulgated thereunder. The Department shall not expend State
26 funds on a contractual basis for such functions unless those
27 functions and expenditures are expressly authorized by the
28 General Assembly.

29 h. To enter into an agreement or agreements with the
30 management of state lotteries operated pursuant to the laws of
31 other states for the purpose of creating and operating a
32 multi-state lottery game wherein a separate and distinct prize
33 pool would be combined to award larger prizes to the public
34 than could be offered by the several state lotteries,
35 individually. No tickets or shares offered in connection with a
36 multi-state lottery game shall be sold within the State of

1 Illinois, except those offered by and through the Department.
2 No such agreement shall purport to pledge the full faith and
3 credit of the State of Illinois, nor shall the Department
4 expend State funds on a contractual basis in connection with
5 any such game unless such expenditures are expressly authorized
6 by the General Assembly, provided, however, that in the event
7 of error or omission by the Illinois State Lottery in the
8 conduct of the game, as determined by the multi-state game
9 directors, the Department shall be authorized to pay a prize
10 winner or winners the lesser of a disputed prize or \$1,000,000,
11 any such payment to be made solely from funds appropriated for
12 game prize purposes. The Department shall be authorized to
13 share in the ordinary operating expenses of any such
14 multi-state lottery game, from funds appropriated by the
15 General Assembly, and in the event the multi-state game control
16 offices are physically located within the State of Illinois,
17 the Department is authorized to advance start-up operating
18 costs not to exceed \$150,000, subject to proportionate
19 reimbursement of such costs by the other participating state
20 lotteries. The Department shall be authorized to share
21 proportionately in the costs of establishing a liability
22 reserve fund from funds appropriated by the General Assembly.
23 The Department is authorized to transfer prize award funds
24 attributable to Illinois sales of multi-state lottery game
25 tickets to the multi-state control office, or its designated
26 depository, for deposit to such game pool account or accounts
27 as may be established by the multi-state game directors, the
28 records of which account or accounts shall be available at all
29 times for inspection in an audit by the Auditor General of
30 Illinois and any other auditors pursuant to the laws of the
31 State of Illinois. No multi-state game prize awarded to a
32 nonresident of Illinois, with respect to a ticket or share
33 purchased in a state other than the State of Illinois, shall be
34 deemed to be a prize awarded under this Act for the purpose of
35 taxation under the Illinois Income Tax Act. All of the net
36 revenues accruing from the sale of multi-state lottery tickets

1 or shares shall be transferred into the Common School Fund
2 pursuant to Section 7.2. The Department shall promulgate such
3 rules as may be appropriate to implement the provisions of this
4 Section.

5 i. To make a continuous study and investigation of (1) the
6 operation and the administration of similar laws which may be
7 in effect in other states or countries, (2) any literature on
8 the subject which from time to time may be published or
9 available, (3) any Federal laws which may affect the operation
10 of the lottery, and (4) the reaction of Illinois citizens to
11 existing and potential features of the lottery with a view to
12 recommending or effecting changes that will tend to serve the
13 purposes of this Act.

14 j. To report monthly to the State Treasurer and the Lottery
15 Control Board a full and complete statement of lottery
16 revenues, prize disbursements and other expenses for each month
17 and the amounts to be transferred to the Common School Fund
18 pursuant to Section 7.2 or such other funds as are otherwise
19 authorized by Section 21.2 of this Act, and to make an annual
20 report, which shall include a full and complete statement of
21 lottery revenues, prize disbursements and other expenses, to
22 the Governor and the Board. All reports required by this
23 subsection shall be public and copies of all such reports shall
24 be sent to the Speaker of the House, the President of the
25 Senate, and the minority leaders of both houses.

26 (Source: P.A. 85-183.)

27 (20 ILCS 1605/10) (from Ch. 120, par. 1160)

28 Sec. 10. The Division ~~Department~~, upon application
29 therefor on forms prescribed by the Division ~~Department~~, and
30 upon a determination by the Division ~~Department~~ that the
31 applicant meets all of the qualifications specified in this
32 Act, shall issue a license as an agent to sell lottery tickets
33 or shares. No license as an agent to sell lottery tickets or
34 shares shall be issued to any person to engage in business
35 exclusively as a lottery sales agent.

1 Before issuing such license the Superintendent ~~Director~~
2 shall consider (a) the financial responsibility and security of
3 the person and his business or activity, (b) the accessibility
4 of his place of business or activity to the public, (c) the
5 sufficiency of existing licenses to serve the public
6 convenience, (d) the volume of expected sales, and (e) such
7 other factors as he or she may deem appropriate.

8 Until September 1, 1987, the provisions of Sections 2a, 4,
9 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 6, 6a, 6b, 6c, 8, 9,
10 10, 12 and 13.5 of the Retailers' Occupation Tax Act which are
11 not inconsistent with this Act shall apply to the subject
12 matter of this Act to the same extent as if such provisions
13 were included in this Act. For purposes of this Act, references
14 in such incorporated Sections of the Retailers' Occupation Tax
15 Act to retailers, sellers or persons engaged in the business of
16 selling tangible personal property mean persons engaged in
17 selling lottery tickets or shares; references in such
18 incorporated Sections to sales of tangible personal property
19 mean the selling of lottery tickets or shares; and references
20 in such incorporated Sections to certificates of registration
21 mean licenses issued under this Act. The provisions of the
22 Retailers' Occupation Tax Act as heretofore applied to the
23 subject matter of this Act shall not apply with respect to
24 tickets sold by or delivered to lottery sales agents on and
25 after September 1, 1987, but such provisions shall continue to
26 apply with respect to transactions involving the sale and
27 delivery of tickets prior to September 1, 1987.

28 All licenses issued by the Division ~~Department~~ under this
29 Act shall be valid for a period not to exceed 2 years after
30 issuance unless sooner revoked, canceled or suspended as in
31 this Act provided. No license issued under this Act shall be
32 transferable or assignable. Such license shall be
33 conspicuously displayed in the place of business conducted by
34 the licensee in Illinois where lottery tickets or shares are to
35 be sold under such license.

36 For purposes of this Section, the term "person" shall be

1 construed to mean and include an individual, association,
2 partnership, corporation, club, trust, estate, society,
3 company, joint stock company, receiver, trustee, referee, any
4 other person acting in a fiduciary or representative capacity
5 who is appointed by a court, or any combination of individuals.
6 "Person" includes any department, commission, agency or
7 instrumentality of the State, including any county, city,
8 village, or township and any agency or instrumentality thereof.
9 (Source: P.A. 86-1475; 87-895.)

10 (20 ILCS 1605/10.1) (from Ch. 120, par. 1160.1)

11 Sec. 10.1. The following are ineligible for any license
12 under this Act:

13 (a) any person who has been convicted of a felony;

14 (b) any person who is or has been a professional gambler or
15 gambling promoter;

16 (c) any person who has engaged in bookmaking or other forms
17 of illegal gambling;

18 (d) any person who is not of good character and reputation
19 in the community in which he resides;

20 (e) any person who has been found guilty of any fraud or
21 misrepresentation in any connection;

22 (f) any firm or corporation in which a person defined in
23 (a), (b), (c), (d) or (e) has a proprietary, equitable or
24 credit interest of 5% or more.

25 (g) any organization in which a person defined in (a), (b),
26 (c), (d) or (e) is an officer, director, or managing agent,
27 whether compensated or not;

28 (h) any organization in which a person defined in (a), (b),
29 (c), (d), or (e) is to participate in the management or sales
30 of lottery tickets or shares.

31 However, with respect to persons defined in (a), the
32 Department may grant any such person a license under this Act
33 when:

34 1) at least 10 years have elapsed since the date when the
35 sentence for the most recent such conviction was satisfactorily

1 completed;

2 2) the applicant has no history of criminal activity
3 subsequent to such conviction;

4 3) the applicant has complied with all conditions of
5 probation, conditional discharge, supervision, parole or
6 mandatory supervised release; and

7 4) the applicant presents at least 3 letters of
8 recommendation from responsible citizens in his community who
9 personally can attest that the character and attitude of the
10 applicant indicate that he is unlikely to commit another crime.

11 The Division ~~Department~~ may revoke, without notice or a
12 hearing, the license of any agent who violates this Act or any
13 rule or regulation promulgated pursuant to this Act. However,
14 if the Division ~~Department~~ does revoke a license without notice
15 and an opportunity for a hearing, the Division ~~Department~~
16 shall, by appropriate notice, afford the person whose license
17 has been revoked an opportunity for a hearing within 30 days
18 after the revocation order has been issued. As a result of any
19 such hearing, the Division ~~Department~~ may confirm its action in
20 revoking the license, or it may order the restoration of such
21 license.

22 (Source: P.A. 82-404.)

23 (20 ILCS 1605/10.1a) (from Ch. 120, par. 1160.1a)

24 Sec. 10.1a. In addition to other grounds specified in this
25 Act, the Division ~~Department~~ shall refuse to issue and shall
26 suspend the license of any lottery sales agency who fails to
27 file a return, or to pay the tax, penalty or interest shown in
28 a filed return, or to pay any final assessment of tax, penalty
29 or interest, as required by any tax Act administered by the
30 ~~Illinois~~ Department ~~of Revenue~~, until such time as the
31 requirements of any such tax Act are satisfied, unless the
32 agency is contesting, in accordance with the procedures
33 established by the appropriate revenue Act, its liability for
34 the tax or the amount of tax. The Division ~~Department~~ shall
35 affirmatively verify the tax status of every sales agency

1 before issuing or renewing a license. For purposes of this
2 Section, a sales agency shall not be considered delinquent in
3 the payment of a tax if the agency (a) has entered into an
4 agreement with the Department ~~of Revenue~~ for the payment of all
5 such taxes that are due and (b) is in compliance with the
6 agreement.

7 (Source: P.A. 87-341.)

8 (20 ILCS 1605/10.2) (from Ch. 120, par. 1160.2)

9 Sec. 10.2. Application and other fees. Each application
10 for a new lottery license must be accompanied by a one-time
11 application fee of \$50; the Division ~~Department~~, however, may
12 waive the fee for licenses of limited duration as provided by
13 Department rule. Each application for renewal of a lottery
14 license must be accompanied by a renewal fee of \$25. Each
15 lottery licensee granted on-line status pursuant to the
16 Department's rules must pay a fee of \$10 per week as partial
17 reimbursement for telecommunications charges incurred by the
18 Department in providing access to the lottery's on-line gaming
19 system. The Department, by rule, may increase or decrease the
20 amount of these fees.

21 (Source: P.A. 93-840, eff. 7-30-04.)

22 (20 ILCS 1605/10.6) (from Ch. 120, par. 1160.6)

23 Sec. 10.6. The Division ~~Department~~ shall make an effort to
24 more directly inform players of the odds of winning prizes.
25 This effort shall include, at a minimum, that the Division
26 ~~Department~~ require all ticket agents to display a placard
27 stating the odds of winning for each game offered by that
28 agent.

29 (Source: P.A. 85-183.)

30 (20 ILCS 1605/10.7)

31 Sec. 10.7. Compulsive gambling.

32 (a) Each lottery sales agent shall post a statement
33 regarding obtaining assistance with gambling problems and

1 including a toll-free "800" telephone number providing crisis
2 counseling and referral services to families experiencing
3 difficulty as a result of problem or compulsive gambling. The
4 text of the statement shall be determined by rule by the
5 Department of Human Services, shall be no more than one
6 sentence in length, and shall be posted on the placard required
7 under Section 10.6. The signs shall be provided by the
8 Department of Human Services.

9 (b) The Division ~~Department~~ shall print a statement
10 regarding obtaining assistance with gambling problems, the
11 text of which shall be determined by rule by the Department of
12 Human Services, on all paper stock it provides to the general
13 public.

14 (c) The Division ~~Department~~ shall print a statement of no
15 more than one sentence in length regarding obtaining assistance
16 with gambling problems and including a toll-free "800" number
17 providing crisis counseling and referral services to families
18 experiencing difficulty as a result of problem or compulsive
19 gambling on the back of all lottery tickets.

20 (Source: P.A. 89-374, eff. 1-1-96; 89-507, eff. 7-1-97.)

21 (20 ILCS 1605/12) (from Ch. 120, par. 1162)

22 Sec. 12. The public inspection and copying of the records
23 and data of the Division ~~Department~~ and the Board shall be
24 generally governed by the provisions of the Freedom of
25 Information Act except that the following shall additionally be
26 exempt from inspection and copying:

27 (i) information privileged against introduction in
28 judicial proceedings;

29 (ii) internal communications of the several agencies;

30 (iii) information concerning secret manufacturing
31 processes or confidential data submitted by any person under
32 this Act;

33 (iv) any creative proposals, scripts, storyboards or other
34 materials prepared by or for the Division ~~Department~~, prior to
35 the placement of the materials in the media, if the prior

1 release of the materials would compromise the effectiveness of
2 an advertising campaign.

3 (Source: P.A. 88-522.)

4 (20 ILCS 1605/13) (from Ch. 120, par. 1163)

5 Sec. 13. Except as otherwise provided in Section 13.1, no
6 prize, nor any portion of a prize, nor any right of any person
7 to a prize awarded shall be assignable. Any prize, or portion
8 thereof remaining unpaid at the death of a prize winner, may be
9 paid to the estate of such deceased prize winner, or to the
10 trustee under a revocable living trust established by the
11 deceased prize winner as settlor, provided that a copy of such
12 a trust has been filed with the Department along with a
13 notarized letter of direction from the settlor and no written
14 notice of revocation has been received by the Division
15 ~~Department~~ prior to the settlor's death. Following such a
16 settlor's death and prior to any payment to such a successor
17 trustee, the Superintendent ~~Director~~ shall obtain from the
18 trustee ~~and each trust beneficiary~~ a written agreement to
19 indemnify and hold the Department and the Division harmless
20 with respect to any claims that may be asserted against the
21 Department or the Division arising from payment to or through
22 the trust. Notwithstanding any other provision of this Section,
23 any person pursuant to an appropriate judicial order may be
24 paid the prize to which a winner is entitled, and all or part
25 of any prize otherwise payable by State warrant under this
26 Section shall be withheld upon certification to the State
27 Comptroller from the Illinois Department of Public Aid as
28 provided in Section 10-17.5 of The Illinois Public Aid Code.
29 The Director and the Superintendent shall be discharged of all
30 further liability upon payment of a prize pursuant to this
31 Section.

32 (Source: P.A. 93-465, eff. 1-1-04.)

33 (20 ILCS 1605/14) (from Ch. 120, par. 1164)

34 Sec. 14. No person shall sell a ticket or share at a price

1 greater than that fixed by rule or regulation of the Department
2 or the Division. No person other than a licensed lottery sales
3 agent or distributor shall sell or resell lottery tickets or
4 shares. No person shall charge a fee to redeem a winning ticket
5 or share.

6 Any person convicted of violating this Section shall be
7 guilty of a Class B misdemeanor; provided, that if any offense
8 under this Section is a subsequent offense, the offender shall
9 be guilty of a Class 4 felony.

10 (Source: P.A. 87-1271.)

11 (20 ILCS 1605/14.3)

12 Sec. 14.3. Misuse of proprietary material prohibited.
13 Except as may be provided in Section 7.11, or by bona fide sale
14 or by prior authorization from the Department or the Division,
15 or otherwise by law, all premiums, promotional and other
16 proprietary material produced or acquired by the Division
17 ~~Department~~ as part of its advertising and promotional
18 activities shall remain the property of the Department. Nothing
19 herein shall be construed to affect the rights or obligations
20 of the Department or any other person under federal or State
21 trademark or copyright laws.

22 (Source: P.A. 88-522.)

23 (20 ILCS 1605/19) (from Ch. 120, par. 1169)

24 Sec. 19. The Division ~~Department~~ shall establish an
25 appropriate period for the claiming of prizes for each lottery
26 game offered. Each claim period shall be stated in game rules
27 and written play instructions issued by the Superintendent
28 ~~Director~~ in accordance with Section 7.1 of this Act. Written
29 play instructions shall be made available to all players
30 through sales agents licensed to sell game tickets or shares.
31 Prizes for lottery games which involve the purchase of a
32 physical lottery ticket may be claimed only by presentation of
33 a valid winning lottery ticket that matches validation records
34 on file with the Lottery; no claim may be honored which is

1 based on the assertion that the ticket was lost or stolen. No
2 lottery ticket which has been altered, mutilated, or fails to
3 pass validation tests shall be deemed to be a winning ticket.

4 If no claim is made for the money within the established
5 claim period, the prize may be included in the prize pool of
6 such special drawing or drawings as the Division ~~Department~~
7 may, from time to time, designate. Unclaimed multi-state game
8 prize money may be included in the multi-state prize pool for
9 such special drawing or drawings as the multi-state game
10 directors may, from time to time, designate. Any bonuses
11 offered by the Department to sales agents who sell winning
12 tickets or shares shall be payable to such agents regardless of
13 whether or not the prize money on the ticket or share is
14 claimed, provided that the agent can be identified as the
15 vendor of the winning ticket or share, and that the winning
16 ticket or share was sold on or after January 1, 1984. All
17 unclaimed prize money not included in the prize pool of a
18 special drawing shall be transferred to the Common School Fund.
19 (Source: P.A. 90-724, eff. 1-1-99.)

20 (20 ILCS 1605/21) (from Ch. 120, par. 1171)

21 Sec. 21. All lottery sales agents or distributors shall be
22 liable to the Lottery for any and all tickets accepted or
23 generated by any employee or representative of that agent or
24 distributor, and such tickets shall be deemed to have been
25 purchased by the agent or distributor unless returned to the
26 Lottery within the time and in the manner prescribed by the
27 Superintendent ~~Director~~. All moneys received by such agents or
28 distributors from the sale of lottery tickets or shares, less
29 the amount retained as compensation for the sale of the tickets
30 or shares and the amount paid out as prizes, shall be paid over
31 to a lottery representative or deposited in a bank or savings
32 and loan association approved by the State Treasurer, as
33 prescribed by the Superintendent ~~Director~~.

34 No bank or savings and loan association shall receive
35 public funds as permitted by this Section, unless it has

1 complied with the requirements established pursuant to Section
2 6 of the Public Funds Investment Act.

3 Each payment or deposit shall be accompanied by a report of
4 the agent's receipts and transactions in the sale of lottery
5 tickets in such form and containing such information as the
6 Superintendent ~~Director~~ may require. Any discrepancies in such
7 receipts and transactions may be resolved as provided by the
8 rules and regulations of the Department.

9 If any money due the Lottery by a sales agent or
10 distributor is not paid when due or demanded, it shall
11 immediately become delinquent and be billed on a subsequent
12 monthly statement. If on the closing date for any monthly
13 statement a delinquent amount previously billed of more than
14 \$50 remains unpaid, interest in such amount shall be accrued at
15 the rate of 2% per month or fraction thereof from the date when
16 such delinquent amount becomes past due until such delinquent
17 amount, including interest, penalty and other costs and charges
18 that the Department may incur in collecting such amounts, is
19 paid. In case any agent or distributor fails to pay any moneys
20 due the Lottery within 30 days after a second bill or statement
21 is rendered to the agent or distributor, such amount shall be
22 deemed seriously delinquent and may be referred by the
23 Department to a collection agency or credit bureau for
24 collection. Any contract entered into by the Department for the
25 collection of seriously delinquent accounts with a collection
26 agency or credit bureau may be satisfied by a commercially
27 reasonable percentage of the delinquent account recouped,
28 which shall be negotiated by the Department in accordance with
29 commercially accepted standards. Any costs incurred by the
30 Department or others authorized to act in its behalf in
31 collecting such delinquencies may be assessed against the agent
32 or distributor and included as a part of the delinquent
33 account.

34 In case of failure of an agent or distributor to pay a
35 seriously delinquent amount, or any portion thereof, including
36 interest, penalty and costs, the Division ~~Department~~ may issue

1 a Notice of Assessment. In determining amounts shown on the
2 Notice of Assessment, the Division ~~Department~~ shall utilize the
3 financial information available from its records. Such Notice
4 of Assessment shall be prima facie correct and shall be prima
5 facie evidence of delinquent sums due under this Section at any
6 hearing before the Board, or its Hearing Officers, or at any
7 other legal proceeding. Reproduced copies of the Division's
8 ~~Department's~~ records relating to a delinquent account or a
9 Notice of Assessment offered in the name of the Department,
10 under the Certificate of the Director or any officer or
11 employee of the Department designated in writing by the
12 Director shall, without further proof, be admitted into
13 evidence in any such hearing or any legal proceeding and shall
14 be prima facie proof of the delinquency, including principal
15 and any interest, penalties and costs, as shown thereon. The
16 Attorney General may bring suit on behalf of the Department to
17 collect all such delinquent amounts, or any portion thereof,
18 including interest, penalty and costs, due the Lottery.

19 Any person who accepts money that is due to the Department
20 from the sale of lottery tickets under this Act, but who
21 wilfully fails to remit such payment to the Department when due
22 or who purports to make such payment but wilfully fails to do
23 so because his check or other remittance fails to clear the
24 bank or savings and loan association against which it is drawn,
25 in addition to the amount due and in addition to any other
26 penalty provided by law, shall be assessed, and shall pay, a
27 penalty equal to 5% of the deficiency plus any costs or charges
28 incurred by the Department in collecting such amount.

29 The Director may make such arrangements for any person(s),
30 banks, savings and loan associations or distributors, to
31 perform such functions, activities or services in connection
32 with the operation of the lottery as he deems advisable
33 pursuant to this Act, the State Comptroller Act, or the rules
34 and regulations of the Department, and such functions,
35 activities or services shall constitute lawful functions,
36 activities and services of such person(s), banks, savings and

1 loan associations or distributors.

2 All income arising out of any activity or purpose of the
3 Division ~~Department~~ shall, pursuant to the State Finance Act,
4 be paid into the State Treasury except as otherwise provided by
5 the rules and regulations of the Department and shall be
6 covered into a special fund to be known as the State Lottery
7 Fund. Banks and savings and loan associations may be
8 compensated for services rendered based upon the activity and
9 amount of funds on deposit.

10 (Source: P.A. 91-357, eff. 7-29-99.)

11 (20 ILCS 1605/24) (from Ch. 120, par. 1174)

12 Sec. 24. The State Comptroller shall conduct a preaudit of
13 all accounts and transactions of the Department in connection
14 with the operation of the State Lottery under the State
15 Comptroller Act, excluding payments issued by the Department
16 for prizes of \$25,000 or less.

17 The Auditor General or a certified public accountant firm
18 appointed by him shall conduct an annual post-audit of all
19 accounts and transactions of the Department in connection with
20 the operation of the State Lottery and other special post
21 audits as the Auditor General, the Legislative Audit
22 Commission, or the General Assembly deems necessary. The annual
23 post-audits shall include payments made by lottery sales agents
24 of prizes of less than \$600 authorized under Section 20, and
25 payments made by the Department of prizes up to \$25,000
26 authorized under Section 20.1. The Auditor General or his agent
27 conducting an audit under this Act shall have access and
28 authority to examine any and all records of the Department or
29 the Board, its distributing agents and its licensees.

30 (Source: P.A. 91-357, eff. 7-29-99.)

31 Section 10. The Illinois Income Tax Act is amended by
32 changing Sections 203 and 902 as follows:

33 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

1 Sec. 203. Base income defined.

2 (a) Individuals.

3 (1) In general. In the case of an individual, base
4 income means an amount equal to the taxpayer's adjusted
5 gross income for the taxable year as modified by paragraph
6 (2).

7 (2) Modifications. The adjusted gross income referred
8 to in paragraph (1) shall be modified by adding thereto the
9 sum of the following amounts:

10 (A) An amount equal to all amounts paid or accrued
11 to the taxpayer as interest or dividends during the
12 taxable year to the extent excluded from gross income
13 in the computation of adjusted gross income, except
14 stock dividends of qualified public utilities
15 described in Section 305(e) of the Internal Revenue
16 Code;

17 (B) An amount equal to the amount of tax imposed by
18 this Act to the extent deducted from gross income in
19 the computation of adjusted gross income for the
20 taxable year;

21 (C) An amount equal to the amount received during
22 the taxable year as a recovery or refund of real
23 property taxes paid with respect to the taxpayer's
24 principal residence under the Revenue Act of 1939 and
25 for which a deduction was previously taken under
26 subparagraph (L) of this paragraph (2) prior to July 1,
27 1991, the retrospective application date of Article 4
28 of Public Act 87-17. In the case of multi-unit or
29 multi-use structures and farm dwellings, the taxes on
30 the taxpayer's principal residence shall be that
31 portion of the total taxes for the entire property
32 which is attributable to such principal residence;

33 (D) An amount equal to the amount of the capital
34 gain deduction allowable under the Internal Revenue
35 Code, to the extent deducted from gross income in the
36 computation of adjusted gross income;

1 (D-5) An amount, to the extent not included in
2 adjusted gross income, equal to the amount of money
3 withdrawn by the taxpayer in the taxable year from a
4 medical care savings account and the interest earned on
5 the account in the taxable year of a withdrawal
6 pursuant to subsection (b) of Section 20 of the Medical
7 Care Savings Account Act or subsection (b) of Section
8 20 of the Medical Care Savings Account Act of 2000;

9 (D-10) For taxable years ending after December 31,
10 1997, an amount equal to any eligible remediation costs
11 that the individual deducted in computing adjusted
12 gross income and for which the individual claims a
13 credit under subsection (l) of Section 201;

14 (D-15) For taxable years 2001 and thereafter, an
15 amount equal to the bonus depreciation deduction ~~(30%~~
16 ~~of the adjusted basis of the qualified property)~~ taken
17 on the taxpayer's federal income tax return for the
18 taxable year under subsection (k) of Section 168 of the
19 Internal Revenue Code;

20 (D-16) If the taxpayer sells, transfers, abandons,
21 or otherwise disposes of ~~reports a capital gain or loss~~
22 ~~on the taxpayer's federal income tax return for the~~
23 ~~taxable year based on a sale or transfer of~~ property
24 for which the taxpayer was required in any taxable year
25 to make an addition modification under subparagraph
26 (D-15), then an amount equal to the aggregate amount of
27 the deductions taken in all taxable years under
28 subparagraph (Z) with respect to that property.

29 If the taxpayer continues to own property through
30 the last day of the last tax year for which the
31 taxpayer may claim a depreciation deduction for
32 federal income tax purposes and for which the taxpayer
33 was allowed in any taxable year to make a subtraction
34 modification under subparagraph (Z), then an amount
35 equal to that subtraction modification.

36 The taxpayer is required to make the addition

1 modification under this subparagraph only once with
2 respect to any one piece of property;

3 (D-17) For taxable years ending on or after
4 December 31, 2004, an amount equal to the amount
5 otherwise allowed as a deduction in computing base
6 income for interest paid, accrued, or incurred,
7 directly or indirectly, to a foreign person who would
8 be a member of the same unitary business group but for
9 the fact that foreign person's business activity
10 outside the United States is 80% or more of the foreign
11 person's total business activity. The addition
12 modification required by this subparagraph shall be
13 reduced to the extent that dividends were included in
14 base income of the unitary group for the same taxable
15 year and received by the taxpayer or by a member of the
16 taxpayer's unitary business group (including amounts
17 included in gross income under Sections 951 through 964
18 of the Internal Revenue Code and amounts included in
19 gross income under Section 78 of the Internal Revenue
20 Code) with respect to the stock of the same person to
21 whom the interest was paid, accrued, or incurred.

22 This paragraph shall not apply to the following:

23 (i) an item of interest paid, accrued, or
24 incurred, directly or indirectly, to a foreign
25 person who is subject in a foreign country or
26 state, other than a state which requires mandatory
27 unitary reporting, to a tax on or measured by net
28 income with respect to such interest; or

29 (ii) an item of interest paid, accrued, or
30 incurred, directly or indirectly, to a foreign
31 person if the taxpayer can establish, based on a
32 preponderance of the evidence, both of the
33 following:

34 (a) the foreign person, during the same
35 taxable year, paid, accrued, or incurred, the
36 interest to a person that is not a related

1 member, and

2 (b) the transaction giving rise to the
3 interest expense between the taxpayer and the
4 foreign person did not have as a principal
5 purpose the avoidance of Illinois income tax,
6 and is paid pursuant to a contract or agreement
7 that reflects an arm's-length interest rate
8 and terms; or

9 (iii) the taxpayer can establish, based on
10 clear and convincing evidence, that the interest
11 paid, accrued, or incurred relates to a contract or
12 agreement entered into at arm's-length rates and
13 terms and the principal purpose for the payment is
14 not federal or Illinois tax avoidance; or

15 (iv) an item of interest paid, accrued, or
16 incurred, directly or indirectly, to a foreign
17 person if the taxpayer establishes by clear and
18 convincing evidence that the adjustments are
19 unreasonable; or if the taxpayer and the Director
20 agree in writing to the application or use of an
21 alternative method of apportionment under Section
22 304(f).

23 Nothing in this subsection shall preclude the
24 Director from making any other adjustment
25 otherwise allowed under Section 404 of this Act for
26 any tax year beginning after the effective date of
27 this amendment provided such adjustment is made
28 pursuant to regulation adopted by the Department
29 and such regulations provide methods and standards
30 by which the Department will utilize its authority
31 under Section 404 of this Act;

32 (D-18) For taxable years ending on or after
33 December 31, 2004, an amount equal to the amount of
34 intangible expenses and costs otherwise allowed as a
35 deduction in computing base income, and that were paid,
36 accrued, or incurred, directly or indirectly, to a

1 foreign person who would be a member of the same
2 unitary business group but for the fact that the
3 foreign person's business activity outside the United
4 States is 80% or more of that person's total business
5 activity. The addition modification required by this
6 subparagraph shall be reduced to the extent that
7 dividends were included in base income of the unitary
8 group for the same taxable year and received by the
9 taxpayer or by a member of the taxpayer's unitary
10 business group (including amounts included in gross
11 income under Sections 951 through 964 of the Internal
12 Revenue Code and amounts included in gross income under
13 Section 78 of the Internal Revenue Code) with respect
14 to the stock of the same person to whom the intangible
15 expenses and costs were directly or indirectly paid,
16 incurred, or accrued. The preceding sentence does not
17 apply to the extent that the same dividends caused a
18 reduction to the addition modification required under
19 Section 203(a)(2)(D-17) of this Act. As used in this
20 subparagraph, the term "intangible expenses and costs"
21 includes (1) expenses, losses, and costs for, or
22 related to, the direct or indirect acquisition, use,
23 maintenance or management, ownership, sale, exchange,
24 or any other disposition of intangible property; (2)
25 losses incurred, directly or indirectly, from
26 factoring transactions or discounting transactions;
27 (3) royalty, patent, technical, and copyright fees;
28 (4) licensing fees; and (5) other similar expenses and
29 costs. For purposes of this subparagraph, "intangible
30 property" includes patents, patent applications, trade
31 names, trademarks, service marks, copyrights, mask
32 works, trade secrets, and similar types of intangible
33 assets.

34 This paragraph shall not apply to the following:

35 (i) any item of intangible expenses or costs
36 paid, accrued, or incurred, directly or

1 indirectly, from a transaction with a foreign
2 person who is subject in a foreign country or
3 state, other than a state which requires mandatory
4 unitary reporting, to a tax on or measured by net
5 income with respect to such item; or

6 (ii) any item of intangible expense or cost
7 paid, accrued, or incurred, directly or
8 indirectly, if the taxpayer can establish, based
9 on a preponderance of the evidence, both of the
10 following:

11 (a) the foreign person during the same
12 taxable year paid, accrued, or incurred, the
13 intangible expense or cost to a person that is
14 not a related member, and

15 (b) the transaction giving rise to the
16 intangible expense or cost between the
17 taxpayer and the foreign person did not have as
18 a principal purpose the avoidance of Illinois
19 income tax, and is paid pursuant to a contract
20 or agreement that reflects arm's-length terms;
21 or

22 (iii) any item of intangible expense or cost
23 paid, accrued, or incurred, directly or
24 indirectly, from a transaction with a foreign
25 person if the taxpayer establishes by clear and
26 convincing evidence, that the adjustments are
27 unreasonable; or if the taxpayer and the Director
28 agree in writing to the application or use of an
29 alternative method of apportionment under Section
30 304(f);

31 Nothing in this subsection shall preclude the
32 Director from making any other adjustment
33 otherwise allowed under Section 404 of this Act for
34 any tax year beginning after the effective date of
35 this amendment provided such adjustment is made
36 pursuant to regulation adopted by the Department

1 and such regulations provide methods and standards
2 by which the Department will utilize its authority
3 under Section 404 of this Act;

4 (D-20) For taxable years beginning on or after
5 January 1, 2002, in the case of a distribution from a
6 qualified tuition program under Section 529 of the
7 Internal Revenue Code, other than (i) a distribution
8 from a College Savings Pool created under Section 16.5
9 of the State Treasurer Act or (ii) a distribution from
10 the Illinois Prepaid Tuition Trust Fund, an amount
11 equal to the amount excluded from gross income under
12 Section 529(c)(3)(B);

13 and by deducting from the total so obtained the sum of the
14 following amounts:

15 (E) For taxable years ending before December 31,
16 2001, any amount included in such total in respect of
17 any compensation (including but not limited to any
18 compensation paid or accrued to a serviceman while a
19 prisoner of war or missing in action) paid to a
20 resident by reason of being on active duty in the Armed
21 Forces of the United States and in respect of any
22 compensation paid or accrued to a resident who as a
23 governmental employee was a prisoner of war or missing
24 in action, and in respect of any compensation paid to a
25 resident in 1971 or thereafter for annual training
26 performed pursuant to Sections 502 and 503, Title 32,
27 United States Code as a member of the Illinois National
28 Guard. For taxable years ending on or after December
29 31, 2001, any amount included in such total in respect
30 of any compensation (including but not limited to any
31 compensation paid or accrued to a serviceman while a
32 prisoner of war or missing in action) paid to a
33 resident by reason of being a member of any component
34 of the Armed Forces of the United States and in respect
35 of any compensation paid or accrued to a resident who
36 as a governmental employee was a prisoner of war or

1 missing in action, and in respect of any compensation
2 paid to a resident in 2001 or thereafter by reason of
3 being a member of the Illinois National Guard. The
4 provisions of this amendatory Act of the 92nd General
5 Assembly are exempt from the provisions of Section 250;

6 (F) An amount equal to all amounts included in such
7 total pursuant to the provisions of Sections 402(a),
8 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the
9 Internal Revenue Code, or included in such total as
10 distributions under the provisions of any retirement
11 or disability plan for employees of any governmental
12 agency or unit, or retirement payments to retired
13 partners, which payments are excluded in computing net
14 earnings from self employment by Section 1402 of the
15 Internal Revenue Code and regulations adopted pursuant
16 thereto;

17 (G) The valuation limitation amount;

18 (H) An amount equal to the amount of any tax
19 imposed by this Act which was refunded to the taxpayer
20 and included in such total for the taxable year;

21 (I) An amount equal to all amounts included in such
22 total pursuant to the provisions of Section 111 of the
23 Internal Revenue Code as a recovery of items previously
24 deducted from adjusted gross income in the computation
25 of taxable income;

26 (J) An amount equal to those dividends included in
27 such total which were paid by a corporation which
28 conducts business operations in an Enterprise Zone or
29 zones created under the Illinois Enterprise Zone Act,
30 and conducts substantially all of its operations in an
31 Enterprise Zone or zones;

32 (K) An amount equal to those dividends included in
33 such total that were paid by a corporation that
34 conducts business operations in a federally designated
35 Foreign Trade Zone or Sub-Zone and that is designated a
36 High Impact Business located in Illinois; provided

1 that dividends eligible for the deduction provided in
2 subparagraph (J) of paragraph (2) of this subsection
3 shall not be eligible for the deduction provided under
4 this subparagraph (K);

5 (L) For taxable years ending after December 31,
6 1983, an amount equal to all social security benefits
7 and railroad retirement benefits included in such
8 total pursuant to Sections 72(r) and 86 of the Internal
9 Revenue Code;

10 (M) With the exception of any amounts subtracted
11 under subparagraph (N), an amount equal to the sum of
12 all amounts disallowed as deductions by (i) Sections
13 171(a) (2), and 265(2) of the Internal Revenue Code of
14 1954, as now or hereafter amended, and all amounts of
15 expenses allocable to interest and disallowed as
16 deductions by Section 265(1) of the Internal Revenue
17 Code of 1954, as now or hereafter amended; and (ii) for
18 taxable years ending on or after August 13, 1999,
19 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
20 the Internal Revenue Code; the provisions of this
21 subparagraph are exempt from the provisions of Section
22 250;

23 (N) An amount equal to all amounts included in such
24 total which are exempt from taxation by this State
25 either by reason of its statutes or Constitution or by
26 reason of the Constitution, treaties or statutes of the
27 United States; provided that, in the case of any
28 statute of this State that exempts income derived from
29 bonds or other obligations from the tax imposed under
30 this Act, the amount exempted shall be the interest net
31 of bond premium amortization;

32 (O) An amount equal to any contribution made to a
33 job training project established pursuant to the Tax
34 Increment Allocation Redevelopment Act;

35 (P) An amount equal to the amount of the deduction
36 used to compute the federal income tax credit for

1 restoration of substantial amounts held under claim of
2 right for the taxable year pursuant to Section 1341 of
3 the Internal Revenue Code of 1986;

4 (Q) An amount equal to any amounts included in such
5 total, received by the taxpayer as an acceleration in
6 the payment of life, endowment or annuity benefits in
7 advance of the time they would otherwise be payable as
8 an indemnity for a terminal illness;

9 (R) An amount equal to the amount of any federal or
10 State bonus paid to veterans of the Persian Gulf War;

11 (S) An amount, to the extent included in adjusted
12 gross income, equal to the amount of a contribution
13 made in the taxable year on behalf of the taxpayer to a
14 medical care savings account established under the
15 Medical Care Savings Account Act or the Medical Care
16 Savings Account Act of 2000 to the extent the
17 contribution is accepted by the account administrator
18 as provided in that Act;

19 (T) An amount, to the extent included in adjusted
20 gross income, equal to the amount of interest earned in
21 the taxable year on a medical care savings account
22 established under the Medical Care Savings Account Act
23 or the Medical Care Savings Account Act of 2000 on
24 behalf of the taxpayer, other than interest added
25 pursuant to item (D-5) of this paragraph (2);

26 (U) For one taxable year beginning on or after
27 January 1, 1994, an amount equal to the total amount of
28 tax imposed and paid under subsections (a) and (b) of
29 Section 201 of this Act on grant amounts received by
30 the taxpayer under the Nursing Home Grant Assistance
31 Act during the taxpayer's taxable years 1992 and 1993;

32 (V) Beginning with tax years ending on or after
33 December 31, 1995 and ending with tax years ending on
34 or before December 31, 2004, an amount equal to the
35 amount paid by a taxpayer who is a self-employed
36 taxpayer, a partner of a partnership, or a shareholder

1 in a Subchapter S corporation for health insurance or
2 long-term care insurance for that taxpayer or that
3 taxpayer's spouse or dependents, to the extent that the
4 amount paid for that health insurance or long-term care
5 insurance may be deducted under Section 213 of the
6 Internal Revenue Code of 1986, has not been deducted on
7 the federal income tax return of the taxpayer, and does
8 not exceed the taxable income attributable to that
9 taxpayer's income, self-employment income, or
10 Subchapter S corporation income; except that no
11 deduction shall be allowed under this item (V) if the
12 taxpayer is eligible to participate in any health
13 insurance or long-term care insurance plan of an
14 employer of the taxpayer or the taxpayer's spouse. The
15 amount of the health insurance and long-term care
16 insurance subtracted under this item (V) shall be
17 determined by multiplying total health insurance and
18 long-term care insurance premiums paid by the taxpayer
19 times a number that represents the fractional
20 percentage of eligible medical expenses under Section
21 213 of the Internal Revenue Code of 1986 not actually
22 deducted on the taxpayer's federal income tax return;

23 (W) For taxable years beginning on or after January
24 1, 1998, all amounts included in the taxpayer's federal
25 gross income in the taxable year from amounts converted
26 from a regular IRA to a Roth IRA. This paragraph is
27 exempt from the provisions of Section 250;

28 (X) For taxable year 1999 and thereafter, an amount
29 equal to the amount of any (i) distributions, to the
30 extent includible in gross income for federal income
31 tax purposes, made to the taxpayer because of his or
32 her status as a victim of persecution for racial or
33 religious reasons by Nazi Germany or any other Axis
34 regime or as an heir of the victim and (ii) items of
35 income, to the extent includible in gross income for
36 federal income tax purposes, attributable to, derived

1 from or in any way related to assets stolen from,
2 hidden from, or otherwise lost to a victim of
3 persecution for racial or religious reasons by Nazi
4 Germany or any other Axis regime immediately prior to,
5 during, and immediately after World War II, including,
6 but not limited to, interest on the proceeds receivable
7 as insurance under policies issued to a victim of
8 persecution for racial or religious reasons by Nazi
9 Germany or any other Axis regime by European insurance
10 companies immediately prior to and during World War II;
11 provided, however, this subtraction from federal
12 adjusted gross income does not apply to assets acquired
13 with such assets or with the proceeds from the sale of
14 such assets; provided, further, this paragraph shall
15 only apply to a taxpayer who was the first recipient of
16 such assets after their recovery and who is a victim of
17 persecution for racial or religious reasons by Nazi
18 Germany or any other Axis regime or as an heir of the
19 victim. The amount of and the eligibility for any
20 public assistance, benefit, or similar entitlement is
21 not affected by the inclusion of items (i) and (ii) of
22 this paragraph in gross income for federal income tax
23 purposes. This paragraph is exempt from the provisions
24 of Section 250;

25 (Y) For taxable years beginning on or after January
26 1, 2002 and ending on or before December 31, 2004,
27 moneys contributed in the taxable year to a College
28 Savings Pool account under Section 16.5 of the State
29 Treasurer Act, except that amounts excluded from gross
30 income under Section 529(c)(3)(C)(i) of the Internal
31 Revenue Code shall not be considered moneys
32 contributed under this subparagraph (Y). For taxable
33 years beginning on or after January 1, 2005, a maximum
34 of \$10,000 contributed in the taxable year to (i) a
35 College Savings Pool account under Section 16.5 of the
36 State Treasurer Act or (ii) the Illinois Prepaid

1 Tuition Trust Fund, except that amounts excluded from
2 gross income under Section 529(c)(3)(C)(i) of the
3 Internal Revenue Code shall not be considered moneys
4 contributed under this subparagraph (Y). This
5 subparagraph (Y) is exempt from the provisions of
6 Section 250;

7 (Z) For taxable years 2001 and thereafter, for the
8 taxable year in which the bonus depreciation deduction
9 ~~(30% of the adjusted basis of the qualified property)~~
10 is taken on the taxpayer's federal income tax return
11 under subsection (k) of Section 168 of the Internal
12 Revenue Code and for each applicable taxable year
13 thereafter, an amount equal to "x", where:

14 (1) "y" equals the amount of the depreciation
15 deduction taken for the taxable year on the
16 taxpayer's federal income tax return on property
17 for which the bonus depreciation deduction ~~(30% of~~
18 ~~the adjusted basis of the qualified property)~~ was
19 taken in any year under subsection (k) of Section
20 168 of the Internal Revenue Code, but not including
21 the bonus depreciation deduction; ~~and~~

22 (2) for taxable years ending on or before
23 December 31, 2005, "x" equals "y" multiplied by 30
24 and then divided by 70 (or "y" multiplied by
25 0.429); and

26 (3) for taxable years ending after December
27 31, 2005:

28 (i) for property on which a bonus
29 depreciation deduction of 30% of the adjusted
30 basis was taken, "x" equals "y" multiplied by
31 30 and then divided by 70 (or "y" multiplied by
32 0.429); and

33 (ii) for property on which a bonus
34 depreciation deduction of 50% of the adjusted
35 basis was taken, "x" equals "y" multiplied by
36 1.0.

1 The aggregate amount deducted under this
2 subparagraph in all taxable years for any one piece of
3 property may not exceed the amount of the bonus
4 depreciation deduction ~~(30% of the adjusted basis of~~
5 ~~the qualified property)~~ taken on that property on the
6 taxpayer's federal income tax return under subsection
7 (k) of Section 168 of the Internal Revenue Code. This
8 subparagraph (Z) is exempt from the provisions of
9 Section 250;

10 (AA) If the taxpayer sells, transfers, abandons,
11 or otherwise disposes of ~~reports a capital gain or loss~~
12 ~~on the taxpayer's federal income tax return for the~~
13 ~~taxable year based on a sale or transfer of~~ property
14 for which the taxpayer was required in any taxable year
15 to make an addition modification under subparagraph
16 (D-15), then an amount equal to that addition
17 modification.

18 If the taxpayer continues to own property through
19 the last day of the last tax year for which the
20 taxpayer may claim a depreciation deduction for
21 federal income tax purposes and for which the taxpayer
22 was required in any taxable year to make an addition
23 modification under subparagraph (D-15), then an amount
24 equal to that addition modification.

25 The taxpayer is allowed to take the deduction under
26 this subparagraph only once with respect to any one
27 piece of property.

28 This subparagraph (AA) is exempt from the
29 provisions of Section 250;

30 (BB) Any amount included in adjusted gross income,
31 other than salary, received by a driver in a
32 ridesharing arrangement using a motor vehicle;

33 (CC) The amount of (i) any interest income (net of
34 the deductions allocable thereto) taken into account
35 for the taxable year with respect to a transaction with
36 a taxpayer that is required to make an addition

1 modification with respect to such transaction under
2 Section 203(a)(2)(D-17), 203(b)(2) (E-12) ~~(E-13)~~,
3 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
4 the amount of that addition modification, and (ii) any
5 income from intangible property (net of the deductions
6 allocable thereto) taken into account for the taxable
7 year with respect to a transaction with a taxpayer that
8 is required to make an addition modification with
9 respect to such transaction under Section
10 203(a)(2)(D-18), 203(b)(2) (E-13) ~~(E-14)~~,
11 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed
12 the amount of that addition modification;

13 (DD) An amount equal to the interest income taken
14 into account for the taxable year (net of the
15 deductions allocable thereto) with respect to
16 transactions with a foreign person who would be a
17 member of the taxpayer's unitary business group but for
18 the fact that the foreign person's business activity
19 outside the United States is 80% or more of that
20 person's total business activity, but not to exceed the
21 addition modification required to be made for the same
22 taxable year under Section 203(a)(2)(D-17) for
23 interest paid, accrued, or incurred, directly or
24 indirectly, to the same foreign person; and

25 (EE) An amount equal to the income from intangible
26 property taken into account for the taxable year (net
27 of the deductions allocable thereto) with respect to
28 transactions with a foreign person who would be a
29 member of the taxpayer's unitary business group but for
30 the fact that the foreign person's business activity
31 outside the United States is 80% or more of that
32 person's total business activity, but not to exceed the
33 addition modification required to be made for the same
34 taxable year under Section 203(a)(2)(D-18) for
35 intangible expenses and costs paid, accrued, or
36 incurred, directly or indirectly, to the same foreign

1 person.

2 (b) Corporations.

3 (1) In general. In the case of a corporation, base
4 income means an amount equal to the taxpayer's taxable
5 income for the taxable year as modified by paragraph (2).

6 (2) Modifications. The taxable income referred to in
7 paragraph (1) shall be modified by adding thereto the sum
8 of the following amounts:

9 (A) An amount equal to all amounts paid or accrued
10 to the taxpayer as interest and all distributions
11 received from regulated investment companies during
12 the taxable year to the extent excluded from gross
13 income in the computation of taxable income;

14 (B) An amount equal to the amount of tax imposed by
15 this Act to the extent deducted from gross income in
16 the computation of taxable income for the taxable year;

17 (C) In the case of a regulated investment company,
18 an amount equal to the excess of (i) the net long-term
19 capital gain for the taxable year, over (ii) the amount
20 of the capital gain dividends designated as such in
21 accordance with Section 852(b)(3)(C) of the Internal
22 Revenue Code and any amount designated under Section
23 852(b)(3)(D) of the Internal Revenue Code,
24 attributable to the taxable year (this amendatory Act
25 of 1995 (Public Act 89-89) is declarative of existing
26 law and is not a new enactment);

27 (D) The amount of any net operating loss deduction
28 taken in arriving at taxable income, other than a net
29 operating loss carried forward from a taxable year
30 ending prior to December 31, 1986;

31 (E) For taxable years in which a net operating loss
32 carryback or carryforward from a taxable year ending
33 prior to December 31, 1986 is an element of taxable
34 income under paragraph (1) of subsection (e) or
35 subparagraph (E) of paragraph (2) of subsection (e),

1 the amount by which addition modifications other than
2 those provided by this subparagraph (E) exceeded
3 subtraction modifications in such earlier taxable
4 year, with the following limitations applied in the
5 order that they are listed:

6 (i) the addition modification relating to the
7 net operating loss carried back or forward to the
8 taxable year from any taxable year ending prior to
9 December 31, 1986 shall be reduced by the amount of
10 addition modification under this subparagraph (E)
11 which related to that net operating loss and which
12 was taken into account in calculating the base
13 income of an earlier taxable year, and

14 (ii) the addition modification relating to the
15 net operating loss carried back or forward to the
16 taxable year from any taxable year ending prior to
17 December 31, 1986 shall not exceed the amount of
18 such carryback or carryforward;

19 For taxable years in which there is a net operating
20 loss carryback or carryforward from more than one other
21 taxable year ending prior to December 31, 1986, the
22 addition modification provided in this subparagraph
23 (E) shall be the sum of the amounts computed
24 independently under the preceding provisions of this
25 subparagraph (E) for each such taxable year;

26 (E-5) For taxable years ending after December 31,
27 1997, an amount equal to any eligible remediation costs
28 that the corporation deducted in computing adjusted
29 gross income and for which the corporation claims a
30 credit under subsection (l) of Section 201;

31 (E-10) For taxable years 2001 and thereafter, an
32 amount equal to the bonus depreciation deduction ~~(30%~~
33 ~~of the adjusted basis of the qualified property)~~ taken
34 on the taxpayer's federal income tax return for the
35 taxable year under subsection (k) of Section 168 of the
36 Internal Revenue Code; and

1 (E-11) If the taxpayer sells, transfers, abandons,
2 or otherwise disposes of ~~reports a capital gain or loss~~
3 ~~on the taxpayer's federal income tax return for the~~
4 ~~taxable year based on a sale or transfer of~~ property
5 for which the taxpayer was required in any taxable year
6 to make an addition modification under subparagraph
7 (E-10), then an amount equal to the aggregate amount of
8 the deductions taken in all taxable years under
9 subparagraph (T) with respect to that property.

10 If the taxpayer continues to own property through
11 the last day of the last tax year for which the
12 taxpayer may claim a depreciation deduction for
13 federal income tax purposes and for which the taxpayer
14 was allowed in any taxable year to make a subtraction
15 modification under subparagraph (T), then an amount
16 equal to that subtraction modification.

17 The taxpayer is required to make the addition
18 modification under this subparagraph only once with
19 respect to any one piece of property;

20 (E-12) For taxable years ending on or after
21 December 31, 2004, an amount equal to the amount
22 otherwise allowed as a deduction in computing base
23 income for interest paid, accrued, or incurred,
24 directly or indirectly, to a foreign person who would
25 be a member of the same unitary business group but for
26 the fact the foreign person's business activity
27 outside the United States is 80% or more of the foreign
28 person's total business activity. The addition
29 modification required by this subparagraph shall be
30 reduced to the extent that dividends were included in
31 base income of the unitary group for the same taxable
32 year and received by the taxpayer or by a member of the
33 taxpayer's unitary business group (including amounts
34 included in gross income pursuant to Sections 951
35 through 964 of the Internal Revenue Code and amounts
36 included in gross income under Section 78 of the

1 Internal Revenue Code) with respect to the stock of the
2 same person to whom the interest was paid, accrued, or
3 incurred.

4 This paragraph shall not apply to the following:

5 (i) an item of interest paid, accrued, or
6 incurred, directly or indirectly, to a foreign
7 person who is subject in a foreign country or
8 state, other than a state which requires mandatory
9 unitary reporting, to a tax on or measured by net
10 income with respect to such interest; or

11 (ii) an item of interest paid, accrued, or
12 incurred, directly or indirectly, to a foreign
13 person if the taxpayer can establish, based on a
14 preponderance of the evidence, both of the
15 following:

16 (a) the foreign person, during the same
17 taxable year, paid, accrued, or incurred, the
18 interest to a person that is not a related
19 member, and

20 (b) the transaction giving rise to the
21 interest expense between the taxpayer and the
22 foreign person did not have as a principal
23 purpose the avoidance of Illinois income tax,
24 and is paid pursuant to a contract or agreement
25 that reflects an arm's-length interest rate
26 and terms; or

27 (iii) the taxpayer can establish, based on
28 clear and convincing evidence, that the interest
29 paid, accrued, or incurred relates to a contract or
30 agreement entered into at arm's-length rates and
31 terms and the principal purpose for the payment is
32 not federal or Illinois tax avoidance; or

33 (iv) an item of interest paid, accrued, or
34 incurred, directly or indirectly, to a foreign
35 person if the taxpayer establishes by clear and
36 convincing evidence that the adjustments are

1 unreasonable; or if the taxpayer and the Director
2 agree in writing to the application or use of an
3 alternative method of apportionment under Section
4 304(f).

5 Nothing in this subsection shall preclude the
6 Director from making any other adjustment
7 otherwise allowed under Section 404 of this Act for
8 any tax year beginning after the effective date of
9 this amendment provided such adjustment is made
10 pursuant to regulation adopted by the Department
11 and such regulations provide methods and standards
12 by which the Department will utilize its authority
13 under Section 404 of this Act;

14 (E-13) For taxable years ending on or after
15 December 31, 2004, an amount equal to the amount of
16 intangible expenses and costs otherwise allowed as a
17 deduction in computing base income, and that were paid,
18 accrued, or incurred, directly or indirectly, to a
19 foreign person who would be a member of the same
20 unitary business group but for the fact that the
21 foreign person's business activity outside the United
22 States is 80% or more of that person's total business
23 activity. The addition modification required by this
24 subparagraph shall be reduced to the extent that
25 dividends were included in base income of the unitary
26 group for the same taxable year and received by the
27 taxpayer or by a member of the taxpayer's unitary
28 business group (including amounts included in gross
29 income pursuant to Sections 951 through 964 of the
30 Internal Revenue Code and amounts included in gross
31 income under Section 78 of the Internal Revenue Code)
32 with respect to the stock of the same person to whom
33 the intangible expenses and costs were directly or
34 indirectly paid, incurred, or accrued. The preceding
35 sentence shall not apply to the extent that the same
36 dividends caused a reduction to the addition

1 modification required under Section 203(b)(2)(E-12) of
2 this Act. As used in this subparagraph, the term
3 "intangible expenses and costs" includes (1) expenses,
4 losses, and costs for, or related to, the direct or
5 indirect acquisition, use, maintenance or management,
6 ownership, sale, exchange, or any other disposition of
7 intangible property; (2) losses incurred, directly or
8 indirectly, from factoring transactions or discounting
9 transactions; (3) royalty, patent, technical, and
10 copyright fees; (4) licensing fees; and (5) other
11 similar expenses and costs. For purposes of this
12 subparagraph, "intangible property" includes patents,
13 patent applications, trade names, trademarks, service
14 marks, copyrights, mask works, trade secrets, and
15 similar types of intangible assets.

16 This paragraph shall not apply to the following:

17 (i) any item of intangible expenses or costs
18 paid, accrued, or incurred, directly or
19 indirectly, from a transaction with a foreign
20 person who is subject in a foreign country or
21 state, other than a state which requires mandatory
22 unitary reporting, to a tax on or measured by net
23 income with respect to such item; or

24 (ii) any item of intangible expense or cost
25 paid, accrued, or incurred, directly or
26 indirectly, if the taxpayer can establish, based
27 on a preponderance of the evidence, both of the
28 following:

29 (a) the foreign person during the same
30 taxable year paid, accrued, or incurred, the
31 intangible expense or cost to a person that is
32 not a related member, and

33 (b) the transaction giving rise to the
34 intangible expense or cost between the
35 taxpayer and the foreign person did not have as
36 a principal purpose the avoidance of Illinois

1 income tax, and is paid pursuant to a contract
2 or agreement that reflects arm's-length terms;
3 or

4 (iii) any item of intangible expense or cost
5 paid, accrued, or incurred, directly or
6 indirectly, from a transaction with a foreign
7 person if the taxpayer establishes by clear and
8 convincing evidence, that the adjustments are
9 unreasonable; or if the taxpayer and the Director
10 agree in writing to the application or use of an
11 alternative method of apportionment under Section
12 304(f);

13 Nothing in this subsection shall preclude the
14 Director from making any other adjustment
15 otherwise allowed under Section 404 of this Act for
16 any tax year beginning after the effective date of
17 this amendment provided such adjustment is made
18 pursuant to regulation adopted by the Department
19 and such regulations provide methods and standards
20 by which the Department will utilize its authority
21 under Section 404 of this Act;

22 and by deducting from the total so obtained the sum of the
23 following amounts:

24 (F) An amount equal to the amount of any tax
25 imposed by this Act which was refunded to the taxpayer
26 and included in such total for the taxable year;

27 (G) An amount equal to any amount included in such
28 total under Section 78 of the Internal Revenue Code;

29 (H) In the case of a regulated investment company,
30 an amount equal to the amount of exempt interest
31 dividends as defined in subsection (b) (5) of Section
32 852 of the Internal Revenue Code, paid to shareholders
33 for the taxable year;

34 (I) With the exception of any amounts subtracted
35 under subparagraph (J), an amount equal to the sum of
36 all amounts disallowed as deductions by (i) Sections

1 171(a) (2), and 265(a)(2) and amounts disallowed as
2 interest expense by Section 291(a)(3) of the Internal
3 Revenue Code, as now or hereafter amended, and all
4 amounts of expenses allocable to interest and
5 disallowed as deductions by Section 265(a)(1) of the
6 Internal Revenue Code, as now or hereafter amended; and
7 (ii) for taxable years ending on or after August 13,
8 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
9 832(b)(5)(B)(i) of the Internal Revenue Code; the
10 provisions of this subparagraph are exempt from the
11 provisions of Section 250;

12 (J) An amount equal to all amounts included in such
13 total which are exempt from taxation by this State
14 either by reason of its statutes or Constitution or by
15 reason of the Constitution, treaties or statutes of the
16 United States; provided that, in the case of any
17 statute of this State that exempts income derived from
18 bonds or other obligations from the tax imposed under
19 this Act, the amount exempted shall be the interest net
20 of bond premium amortization;

21 (K) An amount equal to those dividends included in
22 such total which were paid by a corporation which
23 conducts business operations in an Enterprise Zone or
24 zones created under the Illinois Enterprise Zone Act
25 and conducts substantially all of its operations in an
26 Enterprise Zone or zones;

27 (L) An amount equal to those dividends included in
28 such total that were paid by a corporation that
29 conducts business operations in a federally designated
30 Foreign Trade Zone or Sub-Zone and that is designated a
31 High Impact Business located in Illinois; provided
32 that dividends eligible for the deduction provided in
33 subparagraph (K) of paragraph 2 of this subsection
34 shall not be eligible for the deduction provided under
35 this subparagraph (L);

36 (M) For any taxpayer that is a financial

1 organization within the meaning of Section 304(c) of
2 this Act, an amount included in such total as interest
3 income from a loan or loans made by such taxpayer to a
4 borrower, to the extent that such a loan is secured by
5 property which is eligible for the Enterprise Zone
6 Investment Credit. To determine the portion of a loan
7 or loans that is secured by property eligible for a
8 Section 201(f) investment credit to the borrower, the
9 entire principal amount of the loan or loans between
10 the taxpayer and the borrower should be divided into
11 the basis of the Section 201(f) investment credit
12 property which secures the loan or loans, using for
13 this purpose the original basis of such property on the
14 date that it was placed in service in the Enterprise
15 Zone. The subtraction modification available to
16 taxpayer in any year under this subsection shall be
17 that portion of the total interest paid by the borrower
18 with respect to such loan attributable to the eligible
19 property as calculated under the previous sentence;

20 (M-1) For any taxpayer that is a financial
21 organization within the meaning of Section 304(c) of
22 this Act, an amount included in such total as interest
23 income from a loan or loans made by such taxpayer to a
24 borrower, to the extent that such a loan is secured by
25 property which is eligible for the High Impact Business
26 Investment Credit. To determine the portion of a loan
27 or loans that is secured by property eligible for a
28 Section 201(h) investment credit to the borrower, the
29 entire principal amount of the loan or loans between
30 the taxpayer and the borrower should be divided into
31 the basis of the Section 201(h) investment credit
32 property which secures the loan or loans, using for
33 this purpose the original basis of such property on the
34 date that it was placed in service in a federally
35 designated Foreign Trade Zone or Sub-Zone located in
36 Illinois. No taxpayer that is eligible for the

1 deduction provided in subparagraph (M) of paragraph
2 (2) of this subsection shall be eligible for the
3 deduction provided under this subparagraph (M-1). The
4 subtraction modification available to taxpayers in any
5 year under this subsection shall be that portion of the
6 total interest paid by the borrower with respect to
7 such loan attributable to the eligible property as
8 calculated under the previous sentence;

9 (N) Two times any contribution made during the
10 taxable year to a designated zone organization to the
11 extent that the contribution (i) qualifies as a
12 charitable contribution under subsection (c) of
13 Section 170 of the Internal Revenue Code and (ii) must,
14 by its terms, be used for a project approved by the
15 Department of Commerce and Economic Opportunity under
16 Section 11 of the Illinois Enterprise Zone Act;

17 (O) An amount equal to: (i) 85% for taxable years
18 ending on or before December 31, 1992, or, a percentage
19 equal to the percentage allowable under Section
20 243(a)(1) of the Internal Revenue Code of 1986 for
21 taxable years ending after December 31, 1992, of the
22 amount by which dividends included in taxable income
23 and received from a corporation that is not created or
24 organized under the laws of the United States or any
25 state or political subdivision thereof, including, for
26 taxable years ending on or after December 31, 1988,
27 dividends received or deemed received or paid or deemed
28 paid under Sections 951 through 964 of the Internal
29 Revenue Code, exceed the amount of the modification
30 provided under subparagraph (G) of paragraph (2) of
31 this subsection (b) which is related to such dividends;
32 plus (ii) 100% of the amount by which dividends,
33 included in taxable income and received, including,
34 for taxable years ending on or after December 31, 1988,
35 dividends received or deemed received or paid or deemed
36 paid under Sections 951 through 964 of the Internal

1 Revenue Code, from any such corporation specified in
2 clause (i) that would but for the provisions of Section
3 1504 (b) (3) of the Internal Revenue Code be treated as
4 a member of the affiliated group which includes the
5 dividend recipient, exceed the amount of the
6 modification provided under subparagraph (G) of
7 paragraph (2) of this subsection (b) which is related
8 to such dividends;

9 (P) An amount equal to any contribution made to a
10 job training project established pursuant to the Tax
11 Increment Allocation Redevelopment Act;

12 (Q) An amount equal to the amount of the deduction
13 used to compute the federal income tax credit for
14 restoration of substantial amounts held under claim of
15 right for the taxable year pursuant to Section 1341 of
16 the Internal Revenue Code of 1986;

17 (R) In the case of an attorney-in-fact with respect
18 to whom an interinsurer or a reciprocal insurer has
19 made the election under Section 835 of the Internal
20 Revenue Code, 26 U.S.C. 835, an amount equal to the
21 excess, if any, of the amounts paid or incurred by that
22 interinsurer or reciprocal insurer in the taxable year
23 to the attorney-in-fact over the deduction allowed to
24 that interinsurer or reciprocal insurer with respect
25 to the attorney-in-fact under Section 835(b) of the
26 Internal Revenue Code for the taxable year;

27 (S) For taxable years ending on or after December
28 31, 1997, in the case of a Subchapter S corporation, an
29 amount equal to all amounts of income allocable to a
30 shareholder subject to the Personal Property Tax
31 Replacement Income Tax imposed by subsections (c) and
32 (d) of Section 201 of this Act, including amounts
33 allocable to organizations exempt from federal income
34 tax by reason of Section 501(a) of the Internal Revenue
35 Code. This subparagraph (S) is exempt from the
36 provisions of Section 250;

1 (T) For taxable years 2001 and thereafter, for the
2 taxable year in which the bonus depreciation deduction
3 ~~(30% of the adjusted basis of the qualified property)~~
4 is taken on the taxpayer's federal income tax return
5 under subsection (k) of Section 168 of the Internal
6 Revenue Code and for each applicable taxable year
7 thereafter, an amount equal to "x", where:

8 (1) "y" equals the amount of the depreciation
9 deduction taken for the taxable year on the
10 taxpayer's federal income tax return on property
11 for which the bonus depreciation deduction ~~(30% of~~
12 ~~the adjusted basis of the qualified property)~~ was
13 taken in any year under subsection (k) of Section
14 168 of the Internal Revenue Code, but not including
15 the bonus depreciation deduction; ~~and~~

16 (2) for taxable years ending on or before
17 December 31, 2005, "x" equals "y" multiplied by 30
18 and then divided by 70 (or "y" multiplied by
19 0.429); and

20 (3) for taxable years ending after December
21 31, 2005:

22 (i) for property on which a bonus
23 depreciation deduction of 30% of the adjusted
24 basis was taken, "x" equals "y" multiplied by
25 30 and then divided by 70 (or "y" multiplied by
26 0.429); and

27 (ii) for property on which a bonus
28 depreciation deduction of 50% of the adjusted
29 basis was taken, "x" equals "y" multiplied by
30 1.0.

31 The aggregate amount deducted under this
32 subparagraph in all taxable years for any one piece of
33 property may not exceed the amount of the bonus
34 depreciation deduction ~~(30% of the adjusted basis of~~
35 ~~the qualified property)~~ taken on that property on the
36 taxpayer's federal income tax return under subsection

1 (k) of Section 168 of the Internal Revenue Code. This
2 subparagraph (T) is exempt from the provisions of
3 Section 250;

4 (U) If the taxpayer sells, transfers, abandons, or
5 otherwise disposes of ~~reports a capital gain or loss on~~
6 ~~the taxpayer's federal income tax return for the~~
7 ~~taxable year based on a sale or transfer of~~ property
8 for which the taxpayer was required in any taxable year
9 to make an addition modification under subparagraph
10 (E-10), then an amount equal to that addition
11 modification.

12 If the taxpayer continues to own property through
13 the last day of the last tax year for which the
14 taxpayer may claim a depreciation deduction for
15 federal income tax purposes and for which the taxpayer
16 was required in any taxable year to make an addition
17 modification under subparagraph (E-10), then an amount
18 equal to that addition modification.

19 The taxpayer is allowed to take the deduction under
20 this subparagraph only once with respect to any one
21 piece of property.

22 This subparagraph (U) is exempt from the
23 provisions of Section 250;

24 (V) The amount of: (i) any interest income (net of
25 the deductions allocable thereto) taken into account
26 for the taxable year with respect to a transaction with
27 a taxpayer that is required to make an addition
28 modification with respect to such transaction under
29 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
30 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
31 the amount of such addition modification and (ii) any
32 income from intangible property (net of the deductions
33 allocable thereto) taken into account for the taxable
34 year with respect to a transaction with a taxpayer that
35 is required to make an addition modification with
36 respect to such transaction under Section

1 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
2 203(d)(2)(D-8), but not to exceed the amount of such
3 addition modification;

4 (W) An amount equal to the interest income taken
5 into account for the taxable year (net of the
6 deductions allocable thereto) with respect to
7 transactions with a foreign person who would be a
8 member of the taxpayer's unitary business group but for
9 the fact that the foreign person's business activity
10 outside the United States is 80% or more of that
11 person's total business activity, but not to exceed the
12 addition modification required to be made for the same
13 taxable year under Section 203(b)(2)(E-12) for
14 interest paid, accrued, or incurred, directly or
15 indirectly, to the same foreign person; and

16 (X) An amount equal to the income from intangible
17 property taken into account for the taxable year (net
18 of the deductions allocable thereto) with respect to
19 transactions with a foreign person who would be a
20 member of the taxpayer's unitary business group but for
21 the fact that the foreign person's business activity
22 outside the United States is 80% or more of that
23 person's total business activity, but not to exceed the
24 addition modification required to be made for the same
25 taxable year under Section 203(b)(2)(E-13) for
26 intangible expenses and costs paid, accrued, or
27 incurred, directly or indirectly, to the same foreign
28 person.

29 (3) Special rule. For purposes of paragraph (2) (A),
30 "gross income" in the case of a life insurance company, for
31 tax years ending on and after December 31, 1994, shall mean
32 the gross investment income for the taxable year.

33 (c) Trusts and estates.

34 (1) In general. In the case of a trust or estate, base
35 income means an amount equal to the taxpayer's taxable

1 income for the taxable year as modified by paragraph (2).

2 (2) Modifications. Subject to the provisions of
3 paragraph (3), the taxable income referred to in paragraph
4 (1) shall be modified by adding thereto the sum of the
5 following amounts:

6 (A) An amount equal to all amounts paid or accrued
7 to the taxpayer as interest or dividends during the
8 taxable year to the extent excluded from gross income
9 in the computation of taxable income;

10 (B) In the case of (i) an estate, \$600; (ii) a
11 trust which, under its governing instrument, is
12 required to distribute all of its income currently,
13 \$300; and (iii) any other trust, \$100, but in each such
14 case, only to the extent such amount was deducted in
15 the computation of taxable income;

16 (C) An amount equal to the amount of tax imposed by
17 this Act to the extent deducted from gross income in
18 the computation of taxable income for the taxable year;

19 (D) The amount of any net operating loss deduction
20 taken in arriving at taxable income, other than a net
21 operating loss carried forward from a taxable year
22 ending prior to December 31, 1986;

23 (E) For taxable years in which a net operating loss
24 carryback or carryforward from a taxable year ending
25 prior to December 31, 1986 is an element of taxable
26 income under paragraph (1) of subsection (e) or
27 subparagraph (E) of paragraph (2) of subsection (e),
28 the amount by which addition modifications other than
29 those provided by this subparagraph (E) exceeded
30 subtraction modifications in such taxable year, with
31 the following limitations applied in the order that
32 they are listed:

33 (i) the addition modification relating to the
34 net operating loss carried back or forward to the
35 taxable year from any taxable year ending prior to
36 December 31, 1986 shall be reduced by the amount of

1 addition modification under this subparagraph (E)
2 which related to that net operating loss and which
3 was taken into account in calculating the base
4 income of an earlier taxable year, and

5 (ii) the addition modification relating to the
6 net operating loss carried back or forward to the
7 taxable year from any taxable year ending prior to
8 December 31, 1986 shall not exceed the amount of
9 such carryback or carryforward;

10 For taxable years in which there is a net operating
11 loss carryback or carryforward from more than one other
12 taxable year ending prior to December 31, 1986, the
13 addition modification provided in this subparagraph
14 (E) shall be the sum of the amounts computed
15 independently under the preceding provisions of this
16 subparagraph (E) for each such taxable year;

17 (F) For taxable years ending on or after January 1,
18 1989, an amount equal to the tax deducted pursuant to
19 Section 164 of the Internal Revenue Code if the trust
20 or estate is claiming the same tax for purposes of the
21 Illinois foreign tax credit under Section 601 of this
22 Act;

23 (G) An amount equal to the amount of the capital
24 gain deduction allowable under the Internal Revenue
25 Code, to the extent deducted from gross income in the
26 computation of taxable income;

27 (G-5) For taxable years ending after December 31,
28 1997, an amount equal to any eligible remediation costs
29 that the trust or estate deducted in computing adjusted
30 gross income and for which the trust or estate claims a
31 credit under subsection (l) of Section 201;

32 (G-10) For taxable years 2001 and thereafter, an
33 amount equal to the bonus depreciation deduction ~~(30%~~
34 ~~of the adjusted basis of the qualified property)~~ taken
35 on the taxpayer's federal income tax return for the
36 taxable year under subsection (k) of Section 168 of the

1 Internal Revenue Code; and

2 (G-11) If the taxpayer sells, transfers, abandons,
3 or otherwise disposes of ~~reports a capital gain or loss~~
4 ~~on the taxpayer's federal income tax return for the~~
5 ~~taxable year based on a sale or transfer of~~ property
6 for which the taxpayer was required in any taxable year
7 to make an addition modification under subparagraph
8 (G-10), then an amount equal to the aggregate amount of
9 the deductions taken in all taxable years under
10 subparagraph (R) with respect to that property.

11 If the taxpayer continues to own property through
12 the last day of the last tax year for which the
13 taxpayer may claim a depreciation deduction for
14 federal income tax purposes and for which the taxpayer
15 was allowed in any taxable year to make a subtraction
16 modification under subparagraph (R), then an amount
17 equal to that subtraction modification.

18 The taxpayer is required to make the addition
19 modification under this subparagraph only once with
20 respect to any one piece of property;

21 (G-12) For taxable years ending on or after
22 December 31, 2004, an amount equal to the amount
23 otherwise allowed as a deduction in computing base
24 income for interest paid, accrued, or incurred,
25 directly or indirectly, to a foreign person who would
26 be a member of the same unitary business group but for
27 the fact that the foreign person's business activity
28 outside the United States is 80% or more of the foreign
29 person's total business activity. The addition
30 modification required by this subparagraph shall be
31 reduced to the extent that dividends were included in
32 base income of the unitary group for the same taxable
33 year and received by the taxpayer or by a member of the
34 taxpayer's unitary business group (including amounts
35 included in gross income pursuant to Sections 951
36 through 964 of the Internal Revenue Code and amounts

1 included in gross income under Section 78 of the
2 Internal Revenue Code) with respect to the stock of the
3 same person to whom the interest was paid, accrued, or
4 incurred.

5 This paragraph shall not apply to the following:

6 (i) an item of interest paid, accrued, or
7 incurred, directly or indirectly, to a foreign
8 person who is subject in a foreign country or
9 state, other than a state which requires mandatory
10 unitary reporting, to a tax on or measured by net
11 income with respect to such interest; or

12 (ii) an item of interest paid, accrued, or
13 incurred, directly or indirectly, to a foreign
14 person if the taxpayer can establish, based on a
15 preponderance of the evidence, both of the
16 following:

17 (a) the foreign person, during the same
18 taxable year, paid, accrued, or incurred, the
19 interest to a person that is not a related
20 member, and

21 (b) the transaction giving rise to the
22 interest expense between the taxpayer and the
23 foreign person did not have as a principal
24 purpose the avoidance of Illinois income tax,
25 and is paid pursuant to a contract or agreement
26 that reflects an arm's-length interest rate
27 and terms; or

28 (iii) the taxpayer can establish, based on
29 clear and convincing evidence, that the interest
30 paid, accrued, or incurred relates to a contract or
31 agreement entered into at arm's-length rates and
32 terms and the principal purpose for the payment is
33 not federal or Illinois tax avoidance; or

34 (iv) an item of interest paid, accrued, or
35 incurred, directly or indirectly, to a foreign
36 person if the taxpayer establishes by clear and

1 convincing evidence that the adjustments are
2 unreasonable; or if the taxpayer and the Director
3 agree in writing to the application or use of an
4 alternative method of apportionment under Section
5 304(f).

6 Nothing in this subsection shall preclude the
7 Director from making any other adjustment
8 otherwise allowed under Section 404 of this Act for
9 any tax year beginning after the effective date of
10 this amendment provided such adjustment is made
11 pursuant to regulation adopted by the Department
12 and such regulations provide methods and standards
13 by which the Department will utilize its authority
14 under Section 404 of this Act;

15 (G-13) For taxable years ending on or after
16 December 31, 2004, an amount equal to the amount of
17 intangible expenses and costs otherwise allowed as a
18 deduction in computing base income, and that were paid,
19 accrued, or incurred, directly or indirectly, to a
20 foreign person who would be a member of the same
21 unitary business group but for the fact that the
22 foreign person's business activity outside the United
23 States is 80% or more of that person's total business
24 activity. The addition modification required by this
25 subparagraph shall be reduced to the extent that
26 dividends were included in base income of the unitary
27 group for the same taxable year and received by the
28 taxpayer or by a member of the taxpayer's unitary
29 business group (including amounts included in gross
30 income pursuant to Sections 951 through 964 of the
31 Internal Revenue Code and amounts included in gross
32 income under Section 78 of the Internal Revenue Code)
33 with respect to the stock of the same person to whom
34 the intangible expenses and costs were directly or
35 indirectly paid, incurred, or accrued. The preceding
36 sentence shall not apply to the extent that the same

1 dividends caused a reduction to the addition
2 modification required under Section 203(c)(2)(G-12) of
3 this Act. As used in this subparagraph, the term
4 "intangible expenses and costs" includes: (1)
5 expenses, losses, and costs for or related to the
6 direct or indirect acquisition, use, maintenance or
7 management, ownership, sale, exchange, or any other
8 disposition of intangible property; (2) losses
9 incurred, directly or indirectly, from factoring
10 transactions or discounting transactions; (3) royalty,
11 patent, technical, and copyright fees; (4) licensing
12 fees; and (5) other similar expenses and costs. For
13 purposes of this subparagraph, "intangible property"
14 includes patents, patent applications, trade names,
15 trademarks, service marks, copyrights, mask works,
16 trade secrets, and similar types of intangible assets.

17 This paragraph shall not apply to the following:

18 (i) any item of intangible expenses or costs
19 paid, accrued, or incurred, directly or
20 indirectly, from a transaction with a foreign
21 person who is subject in a foreign country or
22 state, other than a state which requires mandatory
23 unitary reporting, to a tax on or measured by net
24 income with respect to such item; or

25 (ii) any item of intangible expense or cost
26 paid, accrued, or incurred, directly or
27 indirectly, if the taxpayer can establish, based
28 on a preponderance of the evidence, both of the
29 following:

30 (a) the foreign person during the same
31 taxable year paid, accrued, or incurred, the
32 intangible expense or cost to a person that is
33 not a related member, and

34 (b) the transaction giving rise to the
35 intangible expense or cost between the
36 taxpayer and the foreign person did not have as

1 a principal purpose the avoidance of Illinois
2 income tax, and is paid pursuant to a contract
3 or agreement that reflects arm's-length terms;
4 or

5 (iii) any item of intangible expense or cost
6 paid, accrued, or incurred, directly or
7 indirectly, from a transaction with a foreign
8 person if the taxpayer establishes by clear and
9 convincing evidence, that the adjustments are
10 unreasonable; or if the taxpayer and the Director
11 agree in writing to the application or use of an
12 alternative method of apportionment under Section
13 304(f);

14 Nothing in this subsection shall preclude the
15 Director from making any other adjustment
16 otherwise allowed under Section 404 of this Act for
17 any tax year beginning after the effective date of
18 this amendment provided such adjustment is made
19 pursuant to regulation adopted by the Department
20 and such regulations provide methods and standards
21 by which the Department will utilize its authority
22 under Section 404 of this Act;

23 and by deducting from the total so obtained the sum of the
24 following amounts:

25 (H) An amount equal to all amounts included in such
26 total pursuant to the provisions of Sections 402(a),
27 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
28 Internal Revenue Code or included in such total as
29 distributions under the provisions of any retirement
30 or disability plan for employees of any governmental
31 agency or unit, or retirement payments to retired
32 partners, which payments are excluded in computing net
33 earnings from self employment by Section 1402 of the
34 Internal Revenue Code and regulations adopted pursuant
35 thereto;

36 (I) The valuation limitation amount;

1 (J) An amount equal to the amount of any tax
2 imposed by this Act which was refunded to the taxpayer
3 and included in such total for the taxable year;

4 (K) An amount equal to all amounts included in
5 taxable income as modified by subparagraphs (A), (B),
6 (C), (D), (E), (F) and (G) which are exempt from
7 taxation by this State either by reason of its statutes
8 or Constitution or by reason of the Constitution,
9 treaties or statutes of the United States; provided
10 that, in the case of any statute of this State that
11 exempts income derived from bonds or other obligations
12 from the tax imposed under this Act, the amount
13 exempted shall be the interest net of bond premium
14 amortization;

15 (L) With the exception of any amounts subtracted
16 under subparagraph (K), an amount equal to the sum of
17 all amounts disallowed as deductions by (i) Sections
18 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
19 as now or hereafter amended, and all amounts of
20 expenses allocable to interest and disallowed as
21 deductions by Section 265(1) of the Internal Revenue
22 Code of 1954, as now or hereafter amended; and (ii) for
23 taxable years ending on or after August 13, 1999,
24 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
25 the Internal Revenue Code; the provisions of this
26 subparagraph are exempt from the provisions of Section
27 250;

28 (M) An amount equal to those dividends included in
29 such total which were paid by a corporation which
30 conducts business operations in an Enterprise Zone or
31 zones created under the Illinois Enterprise Zone Act
32 and conducts substantially all of its operations in an
33 Enterprise Zone or Zones;

34 (N) An amount equal to any contribution made to a
35 job training project established pursuant to the Tax
36 Increment Allocation Redevelopment Act;

1 (O) An amount equal to those dividends included in
2 such total that were paid by a corporation that
3 conducts business operations in a federally designated
4 Foreign Trade Zone or Sub-Zone and that is designated a
5 High Impact Business located in Illinois; provided
6 that dividends eligible for the deduction provided in
7 subparagraph (M) of paragraph (2) of this subsection
8 shall not be eligible for the deduction provided under
9 this subparagraph (O);

10 (P) An amount equal to the amount of the deduction
11 used to compute the federal income tax credit for
12 restoration of substantial amounts held under claim of
13 right for the taxable year pursuant to Section 1341 of
14 the Internal Revenue Code of 1986;

15 (Q) For taxable year 1999 and thereafter, an amount
16 equal to the amount of any (i) distributions, to the
17 extent includible in gross income for federal income
18 tax purposes, made to the taxpayer because of his or
19 her status as a victim of persecution for racial or
20 religious reasons by Nazi Germany or any other Axis
21 regime or as an heir of the victim and (ii) items of
22 income, to the extent includible in gross income for
23 federal income tax purposes, attributable to, derived
24 from or in any way related to assets stolen from,
25 hidden from, or otherwise lost to a victim of
26 persecution for racial or religious reasons by Nazi
27 Germany or any other Axis regime immediately prior to,
28 during, and immediately after World War II, including,
29 but not limited to, interest on the proceeds receivable
30 as insurance under policies issued to a victim of
31 persecution for racial or religious reasons by Nazi
32 Germany or any other Axis regime by European insurance
33 companies immediately prior to and during World War II;
34 provided, however, this subtraction from federal
35 adjusted gross income does not apply to assets acquired
36 with such assets or with the proceeds from the sale of

1 such assets; provided, further, this paragraph shall
2 only apply to a taxpayer who was the first recipient of
3 such assets after their recovery and who is a victim of
4 persecution for racial or religious reasons by Nazi
5 Germany or any other Axis regime or as an heir of the
6 victim. The amount of and the eligibility for any
7 public assistance, benefit, or similar entitlement is
8 not affected by the inclusion of items (i) and (ii) of
9 this paragraph in gross income for federal income tax
10 purposes. This paragraph is exempt from the provisions
11 of Section 250;

12 (R) For taxable years 2001 and thereafter, for the
13 taxable year in which the bonus depreciation deduction
14 ~~(30% of the adjusted basis of the qualified property)~~
15 is taken on the taxpayer's federal income tax return
16 under subsection (k) of Section 168 of the Internal
17 Revenue Code and for each applicable taxable year
18 thereafter, an amount equal to "x", where:

19 (1) "y" equals the amount of the depreciation
20 deduction taken for the taxable year on the
21 taxpayer's federal income tax return on property
22 for which the bonus depreciation deduction ~~(30% of~~
23 ~~the adjusted basis of the qualified property)~~ was
24 taken in any year under subsection (k) of Section
25 168 of the Internal Revenue Code, but not including
26 the bonus depreciation deduction; ~~and~~

27 (2) for taxable years ending on or before
28 December 31, 2005, "x" equals "y" multiplied by 30
29 and then divided by 70 (or "y" multiplied by
30 0.429); and

31 (3) for taxable years ending after December
32 31, 2005:

33 (i) for property on which a bonus
34 depreciation deduction of 30% of the adjusted
35 basis was taken, "x" equals "y" multiplied by
36 30 and then divided by 70 (or "y" multiplied by

1 0.429); and

2 (ii) for property on which a bonus
3 depreciation deduction of 50% of the adjusted
4 basis was taken, "x" equals "y" multiplied by
5 1.0.

6 The aggregate amount deducted under this
7 subparagraph in all taxable years for any one piece of
8 property may not exceed the amount of the bonus
9 depreciation deduction ~~(30% of the adjusted basis of~~
10 ~~the qualified property)~~ taken on that property on the
11 taxpayer's federal income tax return under subsection
12 (k) of Section 168 of the Internal Revenue Code. This
13 subparagraph (R) is exempt from the provisions of
14 Section 250;

15 (S) If the taxpayer sells, transfers, abandons, or
16 otherwise disposes of ~~reports a capital gain or loss on~~
17 ~~the taxpayer's federal income tax return for the~~
18 ~~taxable year based on a sale or transfer of property~~
19 for which the taxpayer was required in any taxable year
20 to make an addition modification under subparagraph
21 (G-10), then an amount equal to that addition
22 modification.

23 If the taxpayer continues to own property through
24 the last day of the last tax year for which the
25 taxpayer may claim a depreciation deduction for
26 federal income tax purposes and for which the taxpayer
27 was required in any taxable year to make an addition
28 modification under subparagraph (G-10), then an amount
29 equal to that addition modification.

30 The taxpayer is allowed to take the deduction under
31 this subparagraph only once with respect to any one
32 piece of property.

33 This subparagraph (S) is exempt from the
34 provisions of Section 250;

35 (T) The amount of (i) any interest income (net of
36 the deductions allocable thereto) taken into account

1 for the taxable year with respect to a transaction with
2 a taxpayer that is required to make an addition
3 modification with respect to such transaction under
4 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
5 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
6 the amount of such addition modification and (ii) any
7 income from intangible property (net of the deductions
8 allocable thereto) taken into account for the taxable
9 year with respect to a transaction with a taxpayer that
10 is required to make an addition modification with
11 respect to such transaction under Section
12 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
13 203(d)(2)(D-8), but not to exceed the amount of such
14 addition modification;

15 (U) An amount equal to the interest income taken
16 into account for the taxable year (net of the
17 deductions allocable thereto) with respect to
18 transactions with a foreign person who would be a
19 member of the taxpayer's unitary business group but for
20 the fact the foreign person's business activity
21 outside the United States is 80% or more of that
22 person's total business activity, but not to exceed the
23 addition modification required to be made for the same
24 taxable year under Section 203(c)(2)(G-12) for
25 interest paid, accrued, or incurred, directly or
26 indirectly, to the same foreign person; and

27 (V) An amount equal to the income from intangible
28 property taken into account for the taxable year (net
29 of the deductions allocable thereto) with respect to
30 transactions with a foreign person who would be a
31 member of the taxpayer's unitary business group but for
32 the fact that the foreign person's business activity
33 outside the United States is 80% or more of that
34 person's total business activity, but not to exceed the
35 addition modification required to be made for the same
36 taxable year under Section 203(c)(2)(G-13) for

1 intangible expenses and costs paid, accrued, or
2 incurred, directly or indirectly, to the same foreign
3 person.

4 (3) Limitation. The amount of any modification
5 otherwise required under this subsection shall, under
6 regulations prescribed by the Department, be adjusted by
7 any amounts included therein which were properly paid,
8 credited, or required to be distributed, or permanently set
9 aside for charitable purposes pursuant to Internal Revenue
10 Code Section 642(c) during the taxable year.

11 (d) Partnerships.

12 (1) In general. In the case of a partnership, base
13 income means an amount equal to the taxpayer's taxable
14 income for the taxable year as modified by paragraph (2).

15 (2) Modifications. The taxable income referred to in
16 paragraph (1) shall be modified by adding thereto the sum
17 of the following amounts:

18 (A) An amount equal to all amounts paid or accrued
19 to the taxpayer as interest or dividends during the
20 taxable year to the extent excluded from gross income
21 in the computation of taxable income;

22 (B) An amount equal to the amount of tax imposed by
23 this Act to the extent deducted from gross income for
24 the taxable year;

25 (C) The amount of deductions allowed to the
26 partnership pursuant to Section 707 (c) of the Internal
27 Revenue Code in calculating its taxable income;

28 (D) An amount equal to the amount of the capital
29 gain deduction allowable under the Internal Revenue
30 Code, to the extent deducted from gross income in the
31 computation of taxable income;

32 (D-5) For taxable years 2001 and thereafter, an
33 amount equal to the bonus depreciation deduction ~~(30%~~
34 ~~of the adjusted basis of the qualified property)~~ taken
35 on the taxpayer's federal income tax return for the

1 taxable year under subsection (k) of Section 168 of the
2 Internal Revenue Code;

3 (D-6) If the taxpayer sells, transfers, abandons,
4 or otherwise disposes of ~~reports a capital gain or loss~~
5 ~~on the taxpayer's federal income tax return for the~~
6 ~~taxable year based on a sale or transfer of~~ property
7 for which the taxpayer was required in any taxable year
8 to make an addition modification under subparagraph
9 (D-5), then an amount equal to the aggregate amount of
10 the deductions taken in all taxable years under
11 subparagraph (O) with respect to that property.

12 If the taxpayer continues to own property through
13 the last day of the last tax year for which the
14 taxpayer may claim a depreciation deduction for
15 federal income tax purposes and for which the taxpayer
16 was allowed in any taxable year to make a subtraction
17 modification under subparagraph (O), then an amount
18 equal to that subtraction modification.

19 The taxpayer is required to make the addition
20 modification under this subparagraph only once with
21 respect to any one piece of property;

22 (D-7) For taxable years ending on or after December
23 31, 2004, an amount equal to the amount otherwise
24 allowed as a deduction in computing base income for
25 interest paid, accrued, or incurred, directly or
26 indirectly, to a foreign person who would be a member
27 of the same unitary business group but for the fact the
28 foreign person's business activity outside the United
29 States is 80% or more of the foreign person's total
30 business activity. The addition modification required
31 by this subparagraph shall be reduced to the extent
32 that dividends were included in base income of the
33 unitary group for the same taxable year and received by
34 the taxpayer or by a member of the taxpayer's unitary
35 business group (including amounts included in gross
36 income pursuant to Sections 951 through 964 of the

1 Internal Revenue Code and amounts included in gross
2 income under Section 78 of the Internal Revenue Code)
3 with respect to the stock of the same person to whom
4 the interest was paid, accrued, or incurred.

5 This paragraph shall not apply to the following:

6 (i) an item of interest paid, accrued, or
7 incurred, directly or indirectly, to a foreign
8 person who is subject in a foreign country or
9 state, other than a state which requires mandatory
10 unitary reporting, to a tax on or measured by net
11 income with respect to such interest; or

12 (ii) an item of interest paid, accrued, or
13 incurred, directly or indirectly, to a foreign
14 person if the taxpayer can establish, based on a
15 preponderance of the evidence, both of the
16 following:

17 (a) the foreign person, during the same
18 taxable year, paid, accrued, or incurred, the
19 interest to a person that is not a related
20 member, and

21 (b) the transaction giving rise to the
22 interest expense between the taxpayer and the
23 foreign person did not have as a principal
24 purpose the avoidance of Illinois income tax,
25 and is paid pursuant to a contract or agreement
26 that reflects an arm's-length interest rate
27 and terms; or

28 (iii) the taxpayer can establish, based on
29 clear and convincing evidence, that the interest
30 paid, accrued, or incurred relates to a contract or
31 agreement entered into at arm's-length rates and
32 terms and the principal purpose for the payment is
33 not federal or Illinois tax avoidance; or

34 (iv) an item of interest paid, accrued, or
35 incurred, directly or indirectly, to a foreign
36 person if the taxpayer establishes by clear and

1 convincing evidence that the adjustments are
2 unreasonable; or if the taxpayer and the Director
3 agree in writing to the application or use of an
4 alternative method of apportionment under Section
5 304(f).

6 Nothing in this subsection shall preclude the
7 Director from making any other adjustment
8 otherwise allowed under Section 404 of this Act for
9 any tax year beginning after the effective date of
10 this amendment provided such adjustment is made
11 pursuant to regulation adopted by the Department
12 and such regulations provide methods and standards
13 by which the Department will utilize its authority
14 under Section 404 of this Act; and

15 (D-8) For taxable years ending on or after December
16 31, 2004, an amount equal to the amount of intangible
17 expenses and costs otherwise allowed as a deduction in
18 computing base income, and that were paid, accrued, or
19 incurred, directly or indirectly, to a foreign person
20 who would be a member of the same unitary business
21 group but for the fact that the foreign person's
22 business activity outside the United States is 80% or
23 more of that person's total business activity. The
24 addition modification required by this subparagraph
25 shall be reduced to the extent that dividends were
26 included in base income of the unitary group for the
27 same taxable year and received by the taxpayer or by a
28 member of the taxpayer's unitary business group
29 (including amounts included in gross income pursuant
30 to Sections 951 through 964 of the Internal Revenue
31 Code and amounts included in gross income under Section
32 78 of the Internal Revenue Code) with respect to the
33 stock of the same person to whom the intangible
34 expenses and costs were directly or indirectly paid,
35 incurred or accrued. The preceding sentence shall not
36 apply to the extent that the same dividends caused a

1 reduction to the addition modification required under
2 Section 203(d)(2)(D-7) of this Act. As used in this
3 subparagraph, the term "intangible expenses and costs"
4 includes (1) expenses, losses, and costs for, or
5 related to, the direct or indirect acquisition, use,
6 maintenance or management, ownership, sale, exchange,
7 or any other disposition of intangible property; (2)
8 losses incurred, directly or indirectly, from
9 factoring transactions or discounting transactions;
10 (3) royalty, patent, technical, and copyright fees;
11 (4) licensing fees; and (5) other similar expenses and
12 costs. For purposes of this subparagraph, "intangible
13 property" includes patents, patent applications, trade
14 names, trademarks, service marks, copyrights, mask
15 works, trade secrets, and similar types of intangible
16 assets;

17 This paragraph shall not apply to the following:

18 (i) any item of intangible expenses or costs
19 paid, accrued, or incurred, directly or
20 indirectly, from a transaction with a foreign
21 person who is subject in a foreign country or
22 state, other than a state which requires mandatory
23 unitary reporting, to a tax on or measured by net
24 income with respect to such item; or

25 (ii) any item of intangible expense or cost
26 paid, accrued, or incurred, directly or
27 indirectly, if the taxpayer can establish, based
28 on a preponderance of the evidence, both of the
29 following:

30 (a) the foreign person during the same
31 taxable year paid, accrued, or incurred, the
32 intangible expense or cost to a person that is
33 not a related member, and

34 (b) the transaction giving rise to the
35 intangible expense or cost between the
36 taxpayer and the foreign person did not have as

1 a principal purpose the avoidance of Illinois
2 income tax, and is paid pursuant to a contract
3 or agreement that reflects arm's-length terms;
4 or

5 (iii) any item of intangible expense or cost
6 paid, accrued, or incurred, directly or
7 indirectly, from a transaction with a foreign
8 person if the taxpayer establishes by clear and
9 convincing evidence, that the adjustments are
10 unreasonable; or if the taxpayer and the Director
11 agree in writing to the application or use of an
12 alternative method of apportionment under Section
13 304(f);

14 Nothing in this subsection shall preclude the
15 Director from making any other adjustment
16 otherwise allowed under Section 404 of this Act for
17 any tax year beginning after the effective date of
18 this amendment provided such adjustment is made
19 pursuant to regulation adopted by the Department
20 and such regulations provide methods and standards
21 by which the Department will utilize its authority
22 under Section 404 of this Act;

23 and by deducting from the total so obtained the following
24 amounts:

25 (E) The valuation limitation amount;

26 (F) An amount equal to the amount of any tax
27 imposed by this Act which was refunded to the taxpayer
28 and included in such total for the taxable year;

29 (G) An amount equal to all amounts included in
30 taxable income as modified by subparagraphs (A), (B),
31 (C) and (D) which are exempt from taxation by this
32 State either by reason of its statutes or Constitution
33 or by reason of the Constitution, treaties or statutes
34 of the United States; provided that, in the case of any
35 statute of this State that exempts income derived from
36 bonds or other obligations from the tax imposed under

1 this Act, the amount exempted shall be the interest net
2 of bond premium amortization;

3 (H) Any income of the partnership which
4 constitutes personal service income as defined in
5 Section 1348 (b) (1) of the Internal Revenue Code (as
6 in effect December 31, 1981) or a reasonable allowance
7 for compensation paid or accrued for services rendered
8 by partners to the partnership, whichever is greater;

9 (I) An amount equal to all amounts of income
10 distributable to an entity subject to the Personal
11 Property Tax Replacement Income Tax imposed by
12 subsections (c) and (d) of Section 201 of this Act
13 including amounts distributable to organizations
14 exempt from federal income tax by reason of Section
15 501(a) of the Internal Revenue Code;

16 (J) With the exception of any amounts subtracted
17 under subparagraph (G), an amount equal to the sum of
18 all amounts disallowed as deductions by (i) Sections
19 171(a) (2), and 265(2) of the Internal Revenue Code of
20 1954, as now or hereafter amended, and all amounts of
21 expenses allocable to interest and disallowed as
22 deductions by Section 265(1) of the Internal Revenue
23 Code, as now or hereafter amended; and (ii) for taxable
24 years ending on or after August 13, 1999, Sections
25 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the
26 Internal Revenue Code; the provisions of this
27 subparagraph are exempt from the provisions of Section
28 250;

29 (K) An amount equal to those dividends included in
30 such total which were paid by a corporation which
31 conducts business operations in an Enterprise Zone or
32 zones created under the Illinois Enterprise Zone Act,
33 enacted by the 82nd General Assembly, and conducts
34 substantially all of its operations in an Enterprise
35 Zone or Zones;

36 (L) An amount equal to any contribution made to a

1 job training project established pursuant to the Real
2 Property Tax Increment Allocation Redevelopment Act;

3 (M) An amount equal to those dividends included in
4 such total that were paid by a corporation that
5 conducts business operations in a federally designated
6 Foreign Trade Zone or Sub-Zone and that is designated a
7 High Impact Business located in Illinois; provided
8 that dividends eligible for the deduction provided in
9 subparagraph (K) of paragraph (2) of this subsection
10 shall not be eligible for the deduction provided under
11 this subparagraph (M);

12 (N) An amount equal to the amount of the deduction
13 used to compute the federal income tax credit for
14 restoration of substantial amounts held under claim of
15 right for the taxable year pursuant to Section 1341 of
16 the Internal Revenue Code of 1986;

17 (O) For taxable years 2001 and thereafter, for the
18 taxable year in which the bonus depreciation deduction
19 ~~(30% of the adjusted basis of the qualified property)~~
20 is taken on the taxpayer's federal income tax return
21 under subsection (k) of Section 168 of the Internal
22 Revenue Code and for each applicable taxable year
23 thereafter, an amount equal to "x", where:

24 (1) "y" equals the amount of the depreciation
25 deduction taken for the taxable year on the
26 taxpayer's federal income tax return on property
27 for which the bonus depreciation deduction ~~(30% of~~
28 ~~the adjusted basis of the qualified property)~~ was
29 taken in any year under subsection (k) of Section
30 168 of the Internal Revenue Code, but not including
31 the bonus depreciation deduction; ~~and~~

32 (2) for taxable years ending on or before
33 December 31, 2005, "x" equals "y" multiplied by 30
34 and then divided by 70 (or "y" multiplied by
35 0.429); and

36 (3) for taxable years ending after December

1 31, 2005:

2 (i) for property on which a bonus
3 depreciation deduction of 30% of the adjusted
4 basis was taken, "x" equals "y" multiplied by
5 30 and then divided by 70 (or "y" multiplied by
6 0.429); and

7 (ii) for property on which a bonus
8 depreciation deduction of 50% of the adjusted
9 basis was taken, "x" equals "y" multiplied by
10 1.0.

11 The aggregate amount deducted under this
12 subparagraph in all taxable years for any one piece of
13 property may not exceed the amount of the bonus
14 depreciation deduction ~~(30% of the adjusted basis of~~
15 ~~the qualified property)~~ taken on that property on the
16 taxpayer's federal income tax return under subsection
17 (k) of Section 168 of the Internal Revenue Code. This
18 subparagraph (O) is exempt from the provisions of
19 Section 250;

20 (P) If the taxpayer sells, transfers, abandons, or
21 otherwise disposes of ~~reports a capital gain or loss on~~
22 ~~the taxpayer's federal income tax return for the~~
23 ~~taxable year based on a sale or transfer of~~ property
24 for which the taxpayer was required in any taxable year
25 to make an addition modification under subparagraph
26 (D-5), then an amount equal to that addition
27 modification.

28 If the taxpayer continues to own property through
29 the last day of the last tax year for which the
30 taxpayer may claim a depreciation deduction for
31 federal income tax purposes and for which the taxpayer
32 was required in any taxable year to make an addition
33 modification under subparagraph (D-5), then an amount
34 equal to that addition modification.

35 The taxpayer is allowed to take the deduction under
36 this subparagraph only once with respect to any one

1 piece of property.

2 This subparagraph (P) is exempt from the
3 provisions of Section 250;

4 (Q) The amount of (i) any interest income (net of
5 the deductions allocable thereto) taken into account
6 for the taxable year with respect to a transaction with
7 a taxpayer that is required to make an addition
8 modification with respect to such transaction under
9 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
10 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
11 the amount of such addition modification and (ii) any
12 income from intangible property (net of the deductions
13 allocable thereto) taken into account for the taxable
14 year with respect to a transaction with a taxpayer that
15 is required to make an addition modification with
16 respect to such transaction under Section
17 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
18 203(d)(2)(D-8), but not to exceed the amount of such
19 addition modification;

20 (R) An amount equal to the interest income taken
21 into account for the taxable year (net of the
22 deductions allocable thereto) with respect to
23 transactions with a foreign person who would be a
24 member of the taxpayer's unitary business group but for
25 the fact that the foreign person's business activity
26 outside the United States is 80% or more of that
27 person's total business activity, but not to exceed the
28 addition modification required to be made for the same
29 taxable year under Section 203(d)(2)(D-7) for interest
30 paid, accrued, or incurred, directly or indirectly, to
31 the same foreign person; and

32 (S) An amount equal to the income from intangible
33 property taken into account for the taxable year (net
34 of the deductions allocable thereto) with respect to
35 transactions with a foreign person who would be a
36 member of the taxpayer's unitary business group but for

1 the fact that the foreign person's business activity
2 outside the United States is 80% or more of that
3 person's total business activity, but not to exceed the
4 addition modification required to be made for the same
5 taxable year under Section 203(d)(2)(D-8) for
6 intangible expenses and costs paid, accrued, or
7 incurred, directly or indirectly, to the same foreign
8 person.

9 (e) Gross income; adjusted gross income; taxable income.

10 (1) In general. Subject to the provisions of paragraph
11 (2) and subsection (b) (3), for purposes of this Section
12 and Section 803(e), a taxpayer's gross income, adjusted
13 gross income, or taxable income for the taxable year shall
14 mean the amount of gross income, adjusted gross income or
15 taxable income properly reportable for federal income tax
16 purposes for the taxable year under the provisions of the
17 Internal Revenue Code. Taxable income may be less than
18 zero. However, for taxable years ending on or after
19 December 31, 1986, net operating loss carryforwards from
20 taxable years ending prior to December 31, 1986, may not
21 exceed the sum of federal taxable income for the taxable
22 year before net operating loss deduction, plus the excess
23 of addition modifications over subtraction modifications
24 for the taxable year. For taxable years ending prior to
25 December 31, 1986, taxable income may never be an amount in
26 excess of the net operating loss for the taxable year as
27 defined in subsections (c) and (d) of Section 172 of the
28 Internal Revenue Code, provided that when taxable income of
29 a corporation (other than a Subchapter S corporation),
30 trust, or estate is less than zero and addition
31 modifications, other than those provided by subparagraph
32 (E) of paragraph (2) of subsection (b) for corporations or
33 subparagraph (E) of paragraph (2) of subsection (c) for
34 trusts and estates, exceed subtraction modifications, an
35 addition modification must be made under those

1 subparagraphs for any other taxable year to which the
2 taxable income less than zero (net operating loss) is
3 applied under Section 172 of the Internal Revenue Code or
4 under subparagraph (E) of paragraph (2) of this subsection
5 (e) applied in conjunction with Section 172 of the Internal
6 Revenue Code.

7 (2) Special rule. For purposes of paragraph (1) of this
8 subsection, the taxable income properly reportable for
9 federal income tax purposes shall mean:

10 (A) Certain life insurance companies. In the case
11 of a life insurance company subject to the tax imposed
12 by Section 801 of the Internal Revenue Code, life
13 insurance company taxable income, plus the amount of
14 distribution from pre-1984 policyholder surplus
15 accounts as calculated under Section 815a of the
16 Internal Revenue Code;

17 (B) Certain other insurance companies. In the case
18 of mutual insurance companies subject to the tax
19 imposed by Section 831 of the Internal Revenue Code,
20 insurance company taxable income;

21 (C) Regulated investment companies. In the case of
22 a regulated investment company subject to the tax
23 imposed by Section 852 of the Internal Revenue Code,
24 investment company taxable income;

25 (D) Real estate investment trusts. In the case of a
26 real estate investment trust subject to the tax imposed
27 by Section 857 of the Internal Revenue Code, real
28 estate investment trust taxable income;

29 (E) Consolidated corporations. In the case of a
30 corporation which is a member of an affiliated group of
31 corporations filing a consolidated income tax return
32 for the taxable year for federal income tax purposes,
33 taxable income determined as if such corporation had
34 filed a separate return for federal income tax purposes
35 for the taxable year and each preceding taxable year
36 for which it was a member of an affiliated group. For

1 purposes of this subparagraph, the taxpayer's separate
2 taxable income shall be determined as if the election
3 provided by Section 243(b) (2) of the Internal Revenue
4 Code had been in effect for all such years;

5 (F) Cooperatives. In the case of a cooperative
6 corporation or association, the taxable income of such
7 organization determined in accordance with the
8 provisions of Section 1381 through 1388 of the Internal
9 Revenue Code;

10 (G) Subchapter S corporations. In the case of: (i)
11 a Subchapter S corporation for which there is in effect
12 an election for the taxable year under Section 1362 of
13 the Internal Revenue Code, the taxable income of such
14 corporation determined in accordance with Section
15 1363(b) of the Internal Revenue Code, except that
16 taxable income shall take into account those items
17 which are required by Section 1363(b)(1) of the
18 Internal Revenue Code to be separately stated; and (ii)
19 a Subchapter S corporation for which there is in effect
20 a federal election to opt out of the provisions of the
21 Subchapter S Revision Act of 1982 and have applied
22 instead the prior federal Subchapter S rules as in
23 effect on July 1, 1982, the taxable income of such
24 corporation determined in accordance with the federal
25 Subchapter S rules as in effect on July 1, 1982; and

26 (H) Partnerships. In the case of a partnership,
27 taxable income determined in accordance with Section
28 703 of the Internal Revenue Code, except that taxable
29 income shall take into account those items which are
30 required by Section 703(a)(1) to be separately stated
31 but which would be taken into account by an individual
32 in calculating his taxable income.

33 (3) Recapture of business expenses on disposition of
34 asset or business. Notwithstanding any other law to the
35 contrary, if in prior years income from an asset or
36 business has been classified as business income and in a

1 later year is demonstrated to be non-business income, then
2 all expenses, without limitation, deducted in such later
3 year and in the 2 immediately preceding taxable years
4 related to that asset or business that generated the
5 non-business income shall be added back and recaptured as
6 business income in the year of the disposition of the asset
7 or business. Such amount shall be apportioned to Illinois
8 using the greater of the apportionment fraction computed
9 for the business under Section 304 of this Act for the
10 taxable year or the average of the apportionment fractions
11 computed for the business under Section 304 of this Act for
12 the taxable year and for the 2 immediately preceding
13 taxable years.

14 (f) Valuation limitation amount.

15 (1) In general. The valuation limitation amount
16 referred to in subsections (a) (2) (G), (c) (2) (I) and
17 (d) (2) (E) is an amount equal to:

18 (A) The sum of the pre-August 1, 1969 appreciation
19 amounts (to the extent consisting of gain reportable
20 under the provisions of Section 1245 or 1250 of the
21 Internal Revenue Code) for all property in respect of
22 which such gain was reported for the taxable year; plus

23 (B) The lesser of (i) the sum of the pre-August 1,
24 1969 appreciation amounts (to the extent consisting of
25 capital gain) for all property in respect of which such
26 gain was reported for federal income tax purposes for
27 the taxable year, or (ii) the net capital gain for the
28 taxable year, reduced in either case by any amount of
29 such gain included in the amount determined under
30 subsection (a) (2) (F) or (c) (2) (H).

31 (2) Pre-August 1, 1969 appreciation amount.

32 (A) If the fair market value of property referred
33 to in paragraph (1) was readily ascertainable on August
34 1, 1969, the pre-August 1, 1969 appreciation amount for
35 such property is the lesser of (i) the excess of such
36 fair market value over the taxpayer's basis (for

1 determining gain) for such property on that date
2 (determined under the Internal Revenue Code as in
3 effect on that date), or (ii) the total gain realized
4 and reportable for federal income tax purposes in
5 respect of the sale, exchange or other disposition of
6 such property.

7 (B) If the fair market value of property referred
8 to in paragraph (1) was not readily ascertainable on
9 August 1, 1969, the pre-August 1, 1969 appreciation
10 amount for such property is that amount which bears the
11 same ratio to the total gain reported in respect of the
12 property for federal income tax purposes for the
13 taxable year, as the number of full calendar months in
14 that part of the taxpayer's holding period for the
15 property ending July 31, 1969 bears to the number of
16 full calendar months in the taxpayer's entire holding
17 period for the property.

18 (C) The Department shall prescribe such
19 regulations as may be necessary to carry out the
20 purposes of this paragraph.

21 (g) Double deductions. Unless specifically provided
22 otherwise, nothing in this Section shall permit the same item
23 to be deducted more than once.

24 (h) Legislative intention. Except as expressly provided by
25 this Section there shall be no modifications or limitations on
26 the amounts of income, gain, loss or deduction taken into
27 account in determining gross income, adjusted gross income or
28 taxable income for federal income tax purposes for the taxable
29 year, or in the amount of such items entering into the
30 computation of base income and net income under this Act for
31 such taxable year, whether in respect of property values as of
32 August 1, 1969 or otherwise.

33 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,
34 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;

1 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.
2 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

3 (35 ILCS 5/902) (from Ch. 120, par. 9-902)

4 Sec. 902. Notice and Demand.

5 (a) In general. Except as provided in subsection (b) the
6 Director shall, as soon as practicable after an amount payable
7 under this Act is deemed assessed (as provided in Section 903),
8 give notice to each person liable for any unpaid portion of
9 such assessment, stating the amount unpaid and demanding
10 payment thereof. In the case of tax deemed assessed with the
11 filing of a return, the Director shall give notice no later
12 than 3 years after the date the return was filed. Upon receipt
13 of any notice and demand there shall be paid at the place and
14 time stated in such notice the amount stated in such notice.
15 Such notice shall be left at the dwelling or usual place of
16 business of such person or shall be sent by mail to the
17 person's last known address.

18 (b) Judicial review. In the case of a deficiency deemed
19 assessed under Section 903 (a) (2) after the filing of a
20 protest, notice and demand shall not be made with respect to
21 such assessment until all proceedings in court for the review
22 of such assessment have terminated or the time for the taking
23 thereof has expired without such proceedings being instituted.

24 (c) Action for recovery of taxes. At any time that the
25 Department might commence proceedings for a levy under Section
26 1109, regardless of whether a notice of lien was filed under
27 the provisions of Section 1103, it may bring an action in any
28 court of competent jurisdiction within or without this State in
29 the name of the people of this State to recover the amount of
30 any taxes, penalties and interest due and unpaid under this
31 Act. In such action, the certificate of the Department showing
32 the amount of the delinquency shall be prima facie evidence of
33 the correctness of such amount, its assessment and of the
34 compliance by the Department with all the provisions of this
35 Act.

1 (d) Sales or transfers outside the usual course of
2 business-Report-Payment of Tax - Rights and duties of purchaser
3 or transferee - penalty. If any taxpayer, outside the usual
4 course of his business, sells or transfers the major part of
5 any one or more of (A) the stock of goods which he is engaged in
6 the business of selling, or (B) the furniture or fixtures, or
7 (C) the machinery and equipment, or (D) the real property, of
8 any business that is subject to the provisions of this Act, the
9 purchaser or transferee of such assets shall, no later than 10
10 business days after the sale or transfer, file a notice of sale
11 or transfer of business assets with the Chicago office of the
12 Department disclosing the name and address of the seller or
13 transferor, the name and address of the purchaser or
14 transferee, the date of the sale or transfer, a copy of the
15 sales contract and financing agreements which shall include a
16 description of the property sold or transferred, the amount of
17 the purchase price or a statement of other consideration for
18 the sale or transfer, and the terms for payment of the purchase
19 price, and such other information as the Department may
20 reasonably require. If the purchaser or transferee fails to
21 file the above described notice of sale with the Department
22 within the prescribed time, the purchaser or transferee shall
23 be personally liable to the Department for the amount owed
24 hereunder by the seller or transferor but unpaid, up to the
25 amount of the reasonable value of the property acquired by the
26 purchaser or transferee. The purchaser or transferee shall pay
27 the Department the amount of tax, penalties, and interest owed
28 by the seller or transferor under this Act, to the extent they
29 have not been paid by the seller or transferor. The seller or
30 transferor, or the purchaser or transferee, at least 10
31 business days before the date of the sale or transfer, may
32 notify the Department of the intended sale or transfer and
33 request the Department to make a determination as to whether
34 the seller or transferor owes any tax, penalty or interest due
35 under this Act. The Department shall take such steps as may be
36 appropriate to comply with such request.

1 Any order issued by the Department pursuant to this Section
2 to withhold from the purchase price shall be issued within 10
3 business days after the Department receives notification of a
4 sale as provided in this Section. The purchaser or transferee
5 shall withhold such portion of the purchase price as may be
6 directed by the Department, but not to exceed a minimum amount
7 varying by type of business, as determined by the Department
8 pursuant to regulations, plus twice the outstanding unpaid
9 liabilities and twice the average liability of preceding
10 filings times the number of unfiled returns which were not
11 filed when due, to cover the amount of all tax, penalty, and
12 interest due and unpaid by the seller or transferor under this
13 Act or, if the payment of money or property is not involved,
14 shall withhold the performance of the condition that
15 constitutes the consideration for the sale or transfer. Within
16 60 business days after issuance of the initial order to
17 withhold, the Department shall provide written notice to the
18 purchaser or transferee of the actual amount of all taxes,
19 penalties and interest then due and whether or not additional
20 amounts may become due as a result of unpaid taxes required to
21 be withheld by an employer, returns which were not filed when
22 due, pending assessments and audits not completed. The
23 purchaser or transferee shall continue to withhold the amount
24 directed to be withheld by the initial order or such lesser
25 amount as is specified by the final withholding order or to
26 withhold the performance of the condition which constitutes the
27 consideration for the sale or transfer until the purchaser or
28 transferee receives from the Department a certificate showing
29 that no unpaid tax, penalty or interest is due from the seller
30 or transferor under this Act.

31 The purchaser or transferee is relieved of any duty to
32 continue to withhold from the purchase price and of any
33 liability for tax, penalty, or interest due hereunder from the
34 seller or transferor if the Department fails to notify the
35 purchaser or transferee in the manner provided herein of the
36 amount to be withheld within 10 business days after the sale or

1 transfer has been reported to the Department or within 60
2 business days after issuance of the initial order to withhold,
3 as the case may be. The Department shall have the right to
4 determine amounts claimed on an estimated basis to allow for
5 periods for which returns were not filed when due, pending
6 assessments and audits not completed, however the purchaser or
7 transferee shall be personally liable only for the actual
8 amount due when determined.

9 If the seller or transferor has failed to pay the tax,
10 penalty, and interest due from him hereunder and the Department
11 makes timely claim therefor against the purchaser or transferee
12 as hereinabove provided, then the purchaser or transferee shall
13 pay to the Department the amount so withheld from the purchase
14 price. If the purchaser or transferee fails to comply with the
15 requirements of this Section, the purchaser or transferee shall
16 be personally liable to the Department for the amount owed
17 hereunder by the seller or transferor up to the amount of the
18 reasonable value of the property acquired by the purchaser or
19 transferee.

20 Any person who shall acquire any property or rights thereto
21 which, at the time of such acquisition, is subject to a valid
22 lien in favor of the Department, shall be personally liable to
23 the Department for a sum equal to the amount of taxes,
24 penalties and interests, secured by such lien, but not to
25 exceed the reasonable value of such property acquired by him.

26 (Source: P.A. 86-923; 86-953.)

27 Section 15. The Retailers' Occupation Tax Act is amended by
28 changing Section 5j as follows:

29 (35 ILCS 120/5j) (from Ch. 120, par. 444j)

30 Sec. 5j. If any taxpayer, outside the usual course of his
31 business, sells or transfers the major part of any one or more
32 of (A) the stock of goods which he is engaged in the business
33 of selling, or (B) the furniture or fixtures, (C) the machinery
34 and equipment, or (D) the real property, of any business that

1 is subject to the provisions of this Act, the purchaser or
2 transferee of such asset shall, no later than 10 business days
3 after the sale or transfer, file a notice of sale or transfer
4 of business assets with the Chicago office of the Department
5 disclosing the name and address of the seller or transferor,
6 the name and address of the purchaser or transferee, the date
7 of the sale or transfer, a copy of the sales contract and
8 financing agreements which shall include a description of the
9 property sold, the amount of the purchase price or a statement
10 of other consideration for the sale or transfer, the terms for
11 payment of the purchase price, and such other information as
12 the Department may reasonably require. If the purchaser or
13 transferee fails to file the above described notice of sale
14 with the Department within the prescribed time, the purchaser
15 or transferee shall be personally liable for the amount owed
16 hereunder by the seller or transferor to the Department up to
17 the amount of the reasonable value of the property acquired by
18 the purchaser or transferee. The seller or transferor shall pay
19 the Department the amount of tax, penalty and interest (if any)
20 due from him under this Act up to the date of the payment of
21 tax. The seller or transferor, or the purchaser or transferee,
22 at least 10 business days before the date of the sale or
23 transfer, may notify the Department of the intended sale or
24 transfer and request the Department to audit the books and
25 records of the seller or transferor, or to do whatever else may
26 be necessary to determine how much the seller or transferor
27 owes to the Department hereunder up to the date of the sale or
28 transfer. The Department shall take such steps as may be
29 appropriate to comply with such request.

30 Any order issued by the Department pursuant to this Section
31 to withhold from the purchase price shall be issued within 10
32 business days after the Department receives notification of a
33 sale as provided in this Section. The purchaser or transferee
34 shall withhold such portion of the purchase price as may be
35 directed by the Department, but not to exceed a minimum amount
36 varying by type of business, as determined by the Department

1 pursuant to regulations, plus twice the outstanding unpaid
2 liabilities and twice the average liability of preceding
3 filings times the number of unfiled returns, to cover the
4 amount of all tax, penalty and interest due and unpaid by the
5 seller or transferor under this Act or, if the payment of money
6 or property is not involved, shall withhold the performance of
7 the condition that constitutes the consideration for the sale
8 or transfer. Within 60 business days after issuance of the
9 initial order to withhold, the Department shall provide written
10 notice to the purchaser or transferee of the actual amount of
11 all taxes, penalties and interest then due and whether or not
12 additional amounts may become due as a result of unfiled
13 returns, pending assessments and audits not completed. The
14 purchaser or transferee shall continue to withhold the amount
15 directed to be withheld by the initial order or such lesser
16 amount as is specified by the final withholding order or to
17 withhold the performance of the condition which constitutes the
18 consideration for the sale or transfer until the purchaser or
19 transferee receives from the Department a certificate showing
20 that such tax, penalty and interest have been paid or a
21 certificate from the Department showing that no tax, penalty or
22 interest is due from the seller or transferor under this Act.

23 The purchaser or transferee is relieved of any duty to
24 continue to withhold from the purchase price and of any
25 liability for tax, penalty or interest due hereunder from the
26 seller or transferor if the Department fails to notify the
27 purchaser or transferee in the manner provided herein of the
28 amount to be withheld within 10 business days after the sale or
29 transfer has been reported to the Department or within 60
30 business days after issuance of the initial order to withhold,
31 as the case may be. The Department shall have the right to
32 determine amounts claimed on an estimated basis to allow for
33 non-filed periods, pending assessments and audits not
34 completed, however the purchaser or transferee shall be
35 personally liable only for the actual amount due when
36 determined.

1 If the seller or transferor fails to pay the tax, penalty
2 and interest (if any) due from him hereunder and the Department
3 makes timely claim therefor against the purchaser or transferee
4 as hereinabove provided, then the purchaser or transferee shall
5 pay the amount so withheld from the purchase price to the
6 Department. If the purchaser or transferee fails to comply with
7 the requirements of this Section, the purchaser or transferee
8 shall be personally liable to the Department for the amount
9 owed hereunder by the seller or transferor to the Department up
10 to the amount of the reasonable value of the property acquired
11 by the purchaser or transferee.

12 Any person who shall acquire any property or rights thereto
13 which, at the time of such acquisition, is subject to a valid
14 lien in favor of the Department shall be personally liable to
15 the Department for a sum equal to the amount of taxes secured
16 by such lien but not to exceed the reasonable value of such
17 property acquired by him.

18 (Source: P.A. 86-923; 86-953.)

19 Section 20. The Cigarette Tax Act is amended by changing
20 Section 21 as follows:

21 (35 ILCS 130/21) (from Ch. 120, par. 453.21)

22 Sec. 21. (a) When any original packages of cigarettes or
23 any cigarette vending device shall have been declared forfeited
24 to the State by the Department, as provided in Section 18a of
25 this Act, and when all proceedings for the judicial review of
26 the Department's decision have terminated, the Department
27 shall, to the extent that its decision is sustained on review,
28 destroy, maintain and use in an undercover capacity, or sell
29 such property for the best price obtainable and shall forthwith
30 pay over the proceeds of such sale to the State Treasurer. If
31 the value of such property to be sold at any one time is \$500 or
32 more, however, such property shall be sold only to the highest
33 and best bidder on such terms and conditions and on open
34 competitive bidding after public advertisement, in such manner

1 and for such terms as the Department, by rule, may prescribe.

2 (b) If no complaint for review, as provided in Section 8 of
3 this Act, has been filed within the time required by the
4 Administrative Review Law, and if no stay order has been
5 entered thereunder, the Department shall proceed to sell the
6 property for the best price obtainable and shall forthwith pay
7 over the proceeds of such sale to the State Treasurer. If the
8 value of such property to be sold at any one time is \$500 or
9 more, however, such property shall be sold only to the highest
10 and best bidder on such terms and conditions and on open
11 competitive bidding after public advertisement, in such manner
12 and for such terms as the Department, by rule, may prescribe.

13 (c) Upon making a sale of unstamped original packages of
14 cigarettes as provided in this Section, the Department shall
15 affix a distinctive stamp to each of the original packages so
16 sold indicating that the same are sold under this Section.

17 (d) Notwithstanding the foregoing, any cigarettes seized
18 under this Act or under the Cigarette Use Tax Act may, at the
19 discretion of the Director of Revenue, be distributed to any
20 eleemosynary institution within the State of Illinois.

21 (Source: P.A. 82-783.)

22 Section 25. The Cigarette Use Tax Act is amended by
23 changing Sections 26 and 27 as follows:

24 (35 ILCS 135/26) (from Ch. 120, par. 453.56)

25 Sec. 26. Whenever any peace officer of the State or any
26 duly authorized officer or employee of the Department shall
27 have reason to believe that any violation of this Act has
28 occurred and that the person so violating the Act has in his,
29 her or its possession any original package of cigarettes, not
30 tax stamped or tax imprinted underneath the sealed transparent
31 wrapper of such original packages, as required by this Act, or
32 any vending device containing such original packages to which
33 stamps have not been affixed, or on which an authorized
34 substitute for stamps has not been imprinted underneath the

1 sealed transparent wrapper of such original packages, as
2 required by this Act, he may file or cause to be filed his
3 complaint in writing, verified by affidavit, with any circuit
4 court within whose jurisdiction the premises to be searched are
5 situated, stating the facts upon which such belief is founded,
6 the premises to be searched, and the property to be seized, and
7 procure a search warrant and execute the same. Upon the
8 execution of such search warrant, the peace officer, or officer
9 or employee of the Department, executing such search warrant
10 shall make due return thereof to the court issuing the same,
11 together with an inventory of the property taken thereunder.
12 The court shall thereupon issue process against the owner of
13 such property if he is known; otherwise, such process shall be
14 issued against the person in whose possession the property so
15 taken is found, if such person is known. In case of inability
16 to serve such process upon the owner or the person in
17 possession of the property at the time of its seizure, as
18 hereinbefore provided, notice of the proceedings before the
19 court shall be given as required by the statutes of the State
20 governing cases of Attachment. Upon the return of the process
21 duly served or upon the posting or publishing of notice made,
22 as hereinabove provided, the court or jury, if a jury shall be
23 demanded, shall proceed to determine whether or not such
24 property so seized was held or possessed in violation of this
25 Act, or whether, if a vending device has been so seized, it
26 contained at the time of its seizure original packages not tax
27 stamped or tax imprinted underneath the sealed transparent
28 wrapper of such original packages as required by this Act. In
29 case of a finding that the original packages seized were not
30 tax stamped or tax imprinted underneath the sealed transparent
31 wrapper of such original packages in accordance with the
32 provisions of this Act, or that any vending device so seized
33 contained at the time of its seizure original packages not tax
34 stamped or tax imprinted underneath the sealed transparent
35 wrapper of such original packages in accordance with the
36 provisions of this Act, judgment shall be entered confiscating

1 and forfeiting the property to the State and ordering its
2 delivery to the Department, and in addition thereto, the court
3 shall have power to tax and assess the costs of the
4 proceedings.

5 When any original packages or any cigarette vending device
6 shall have been declared forfeited to the State by any court,
7 as hereinbefore provided, and when such confiscated and
8 forfeited property shall have been delivered to the Department,
9 as provided in this Act, the said Department shall destroy,
10 maintain and use in an undercover capacity, or sell such
11 property for the best price obtainable and shall forthwith pay
12 over the proceeds of such sale to the State Treasurer;
13 provided, however, that if the value of such property to be
14 sold at any one time shall be \$500 or more, such property shall
15 be sold only to the highest and best bidder on such terms and
16 conditions and on open competitive bidding after public
17 advertisement, in such manner and for such terms as the
18 Department, by rule, may prescribe.

19 Upon making such a sale of original packages of cigarettes
20 which were not tax stamped or tax imprinted underneath the
21 sealed transparent wrapper of such original packages as
22 required by this Act, the Department shall affix a distinctive
23 stamp to each of the original packages so sold indicating that
24 the same are sold pursuant to the provisions of this Section.

25 (Source: Laws 1965, p. 3710.)

26 (35 ILCS 135/27) (from Ch. 120, par. 453.57)

27 Sec. 27. When any original packages of cigarettes or any
28 cigarette vending device shall have been declared forfeited to
29 the State by the Department, as provided in Section 25 of this
30 Act, and when all proceedings for the judicial review of the
31 Department's decision have terminated, the Department shall,
32 to the extent that its decision is sustained on review,
33 destroy, maintain and use in an undercover capacity, or sell
34 such property for the best price obtainable and shall forthwith
35 pay over the proceeds of such sale to the State Treasurer;

1 provided, however, that if the value of such property to be
2 sold at any one time shall be Five Hundred Dollars (\$500) or
3 more, such property shall be sold only to the highest and best
4 bidder on such terms and conditions and on open competitive
5 bidding after public advertisement, in such manner and for such
6 terms as the Department, by rule, may prescribe.

7 If no complaint for review, as provided in Section 21 of
8 this Act, has been filed within the time required by the
9 "Administrative Review Law," and if no stay order has been
10 entered thereunder, the Department shall proceed to sell said
11 property for the best price obtainable and shall forthwith pay
12 over the proceeds of such sale to the State Treasurer;
13 provided, however, that if the value of such property to be
14 sold at any one time shall be \$500 or more, such property shall
15 be sold only to the highest and best bidder on such terms and
16 conditions and on open competitive bidding after public
17 advertisement, in such manner and for such terms as the
18 Department, by rule, may prescribe.

19 Upon making a sale of unstamped original packages of
20 cigarettes as provided in this Section, the Department shall
21 affix a distinctive stamp to each of the original packages so
22 sold indicating that the same are sold pursuant to the
23 provisions of this Section.

24 (Source: P.A. 83-1539.)

25 Section 30. The Tobacco Products Tax Act of 1995 is amended
26 by changing Section 10-58 as follows:

27 (35 ILCS 143/10-58)

28 Sec. 10-58. Sale of forfeited tobacco products or vending
29 devices.

30 (a) When any tobacco products or any vending devices are
31 declared forfeited to the State by the Department, as provided
32 in Section 10-55, and when all proceedings for the judicial
33 review of the Department's decision have terminated, the
34 Department shall, to the extent that its decision is sustained

1 on review, sell the property for the best price obtainable and
2 shall forthwith pay over the proceeds of the sale to the State
3 Treasurer. If the value of the property to be sold at any one
4 time is \$500 or more, however, the property shall be sold only
5 to the highest and best bidder on terms and conditions, and on
6 open competitive bidding after public advertisement, in a
7 manner and for terms as the Department, by rule, may prescribe.

8 (b) If no complaint for review, as provided in Section 12
9 of the Retailers' Occupation Tax Act, has been filed within the
10 time required by the Administrative Review Law, and if no stay
11 order has been entered under that Law, the Department shall
12 proceed to destroy, maintain and use in an undercover capacity,
13 or sell the property for the best price obtainable and shall
14 forthwith pay over the proceeds of the sale to the State
15 Treasurer. If the value of the property to be sold at any one
16 time is \$500 or more, however, the property shall be sold only
17 to the highest and best bidder on terms and conditions, and on
18 open competitive bidding after public advertisement, in a
19 manner and for terms as the Department, by rule, may prescribe.

20 (c) Upon making a sale of tobacco products as provided in
21 this Section, the Department shall affix a distinctive stamp to
22 each of the tobacco products so sold indicating that they are
23 sold under this Section.

24 (d) Notwithstanding the foregoing, any tobacco products
25 seized under this Act may, at the discretion of the Director of
26 Revenue, be distributed to any eleemosynary institution within
27 the State of Illinois.

28 (Source: P.A. 92-743, eff. 7-25-02.)

29 Section 35. The Local Mass Transit District Act is amended
30 by changing Section 5.01 as follows:

31 (70 ILCS 3610/5.01) (from Ch. 111 2/3, par. 355.01)

32 Sec. 5.01. Metro East Mass Transit District; use and
33 occupation taxes.

34 (a) The Board of Trustees of any Metro East Mass Transit

1 District may, by ordinance adopted with the concurrence of
2 two-thirds of the then trustees, impose throughout the District
3 any or all of the taxes and fees provided in this Section. All
4 taxes and fees imposed under this Section shall be used only
5 for public mass transportation systems, and the amount used to
6 provide mass transit service to unserved areas of the District
7 shall be in the same proportion to the total proceeds as the
8 number of persons residing in the unserved areas is to the
9 total population of the District. Except as otherwise provided
10 in this Act, taxes imposed under this Section and civil
11 penalties imposed incident thereto shall be collected and
12 enforced by the State Department of Revenue. The Department
13 shall have the power to administer and enforce the taxes and to
14 determine all rights for refunds for erroneous payments of the
15 taxes.

16 (b) The Board may impose a Metro East Mass Transit District
17 Retailers' Occupation Tax upon all persons engaged in the
18 business of selling tangible personal property at retail in the
19 district at a rate of 1/4 of 1%, or as authorized under
20 subsection (d-5) of this Section, of the gross receipts from
21 the sales made in the course of such business within the
22 district. The tax imposed under this Section and all civil
23 penalties that may be assessed as an incident thereof shall be
24 collected and enforced by the State Department of Revenue. The
25 Department shall have full power to administer and enforce this
26 Section; to collect all taxes and penalties so collected in the
27 manner hereinafter provided; and to determine all rights to
28 credit memoranda arising on account of the erroneous payment of
29 tax or penalty hereunder. In the administration of, and
30 compliance with, this Section, the Department and persons who
31 are subject to this Section shall have the same rights,
32 remedies, privileges, immunities, powers and duties, and be
33 subject to the same conditions, restrictions, limitations,
34 penalties, exclusions, exemptions and definitions of terms and
35 employ the same modes of procedure, as are prescribed in
36 Sections 1, 1a, 1a-1, 1c, 1d, 1e, 1f, 1i, 1j, 2 through 2-65

1 (in respect to all provisions therein other than the State rate
2 of tax), 2c, 3 (except as to the disposition of taxes and
3 penalties collected), 4, 5, 5a, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j,
4 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12, 13, and 14 of the
5 Retailers' Occupation Tax Act and Section 3-7 of the Uniform
6 Penalty and Interest Act, as fully as if those provisions were
7 set forth herein.

8 Persons subject to any tax imposed under the Section may
9 reimburse themselves for their seller's tax liability
10 hereunder by separately stating the tax as an additional
11 charge, which charge may be stated in combination, in a single
12 amount, with State taxes that sellers are required to collect
13 under the Use Tax Act, in accordance with such bracket
14 schedules as the Department may prescribe.

15 Whenever the Department determines that a refund should be
16 made under this Section to a claimant instead of issuing a
17 credit memorandum, the Department shall notify the State
18 Comptroller, who shall cause the warrant to be drawn for the
19 amount specified, and to the person named, in the notification
20 from the Department. The refund shall be paid by the State
21 Treasurer out of the Metro East Mass Transit District tax fund
22 established under paragraph (g) of this Section.

23 If a tax is imposed under this subsection (b), a tax shall
24 also be imposed under subsections (c) and (d) of this Section.

25 For the purpose of determining whether a tax authorized
26 under this Section is applicable, a retail sale, by a producer
27 of coal or other mineral mined in Illinois, is a sale at retail
28 at the place where the coal or other mineral mined in Illinois
29 is extracted from the earth. This paragraph does not apply to
30 coal or other mineral when it is delivered or shipped by the
31 seller to the purchaser at a point outside Illinois so that the
32 sale is exempt under the Federal Constitution as a sale in
33 interstate or foreign commerce.

34 Nothing in this Section shall be construed to authorize the
35 Metro East Mass Transit District to impose a tax upon the
36 privilege of engaging in any business which under the

1 Constitution of the United States may not be made the subject
2 of taxation by this State.

3 (c) If a tax has been imposed under subsection (b), a Metro
4 East Mass Transit District Service Occupation Tax shall also be
5 imposed upon all persons engaged, in the district, in the
6 business of making sales of service, who, as an incident to
7 making those sales of service, transfer tangible personal
8 property within the District, either in the form of tangible
9 personal property or in the form of real estate as an incident
10 to a sale of service. The tax rate shall be 1/4%, or as
11 authorized under subsection (d-5) of this Section, of the
12 selling price of tangible personal property so transferred
13 within the district. The tax imposed under this paragraph and
14 all civil penalties that may be assessed as an incident thereof
15 shall be collected and enforced by the State Department of
16 Revenue. The Department shall have full power to administer and
17 enforce this paragraph; to collect all taxes and penalties due
18 hereunder; to dispose of taxes and penalties so collected in
19 the manner hereinafter provided; and to determine all rights to
20 credit memoranda arising on account of the erroneous payment of
21 tax or penalty hereunder. In the administration of, and
22 compliance with this paragraph, the Department and persons who
23 are subject to this paragraph shall have the same rights,
24 remedies, privileges, immunities, powers and duties, and be
25 subject to the same conditions, restrictions, limitations,
26 penalties, exclusions, exemptions and definitions of terms and
27 employ the same modes of procedure as are prescribed in
28 Sections 1a-1, 2 (except that the reference to State in the
29 definition of supplier maintaining a place of business in this
30 State shall mean the Authority), 2a, 3 through 3-50 (in respect
31 to all provisions therein other than the State rate of tax), 4
32 (except that the reference to the State shall be to the
33 Authority), 5, 7, 8 (except that the jurisdiction to which the
34 tax shall be a debt to the extent indicated in that Section 8
35 shall be the District), 9 (except as to the disposition of
36 taxes and penalties collected, and except that the returned

1 merchandise credit for this tax may not be taken against any
2 State tax), 10, 11, 12 (except the reference therein to Section
3 2b of the Retailers' Occupation Tax Act), 13 (except that any
4 reference to the State shall mean the District), the first
5 paragraph of Section 15, 16, 17, 18, 19 and 20 of the Service
6 Occupation Tax Act and Section 3-7 of the Uniform Penalty and
7 Interest Act, as fully as if those provisions were set forth
8 herein.

9 Persons subject to any tax imposed under the authority
10 granted in this paragraph may reimburse themselves for their
11 serviceman's tax liability hereunder by separately stating the
12 tax as an additional charge, which charge may be stated in
13 combination, in a single amount, with State tax that servicemen
14 are authorized to collect under the Service Use Tax Act, in
15 accordance with such bracket schedules as the Department may
16 prescribe.

17 Whenever the Department determines that a refund should be
18 made under this paragraph to a claimant instead of issuing a
19 credit memorandum, the Department shall notify the State
20 Comptroller, who shall cause the warrant to be drawn for the
21 amount specified, and to the person named, in the notification
22 from the Department. The refund shall be paid by the State
23 Treasurer out of the Metro East Mass Transit District tax fund
24 established under paragraph (g) of this Section.

25 Nothing in this paragraph shall be construed to authorize
26 the District to impose a tax upon the privilege of engaging in
27 any business which under the Constitution of the United States
28 may not be made the subject of taxation by the State.

29 (d) If a tax has been imposed under subsection (b), a Metro
30 East Mass Transit District Use Tax shall also be imposed upon
31 the privilege of using, in the district, any item of tangible
32 personal property that is purchased outside the district at
33 retail from a retailer, and that is titled or registered with
34 an agency of this State's government, at a rate of 1/4%, or as
35 authorized under subsection (d-5) of this Section, of the
36 selling price of the tangible personal property within the

1 District, as "selling price" is defined in the Use Tax Act. The
2 tax shall be collected from persons whose Illinois address for
3 titling or registration purposes is given as being in the
4 District. The tax shall be collected by the Department of
5 Revenue for the Metro East Mass Transit District. The tax must
6 be paid to the State, or an exemption determination must be
7 obtained from the Department of Revenue, before the title or
8 certificate of registration for the property may be issued. The
9 tax or proof of exemption may be transmitted to the Department
10 by way of the State agency with which, or the State officer
11 with whom, the tangible personal property must be titled or
12 registered if the Department and the State agency or State
13 officer determine that this procedure will expedite the
14 processing of applications for title or registration.

15 The Department shall have full power to administer and
16 enforce this paragraph; to collect all taxes, penalties and
17 interest due hereunder; to dispose of taxes, penalties and
18 interest so collected in the manner hereinafter provided; and
19 to determine all rights to credit memoranda or refunds arising
20 on account of the erroneous payment of tax, penalty or interest
21 hereunder. In the administration of, and compliance with, this
22 paragraph, the Department and persons who are subject to this
23 paragraph shall have the same rights, remedies, privileges,
24 immunities, powers and duties, and be subject to the same
25 conditions, restrictions, limitations, penalties, exclusions,
26 exemptions and definitions of terms and employ the same modes
27 of procedure, as are prescribed in Sections 2 (except the
28 definition of "retailer maintaining a place of business in this
29 State"), 3 through 3-80 (except provisions pertaining to the
30 State rate of tax, and except provisions concerning collection
31 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,
32 19 (except the portions pertaining to claims by retailers and
33 except the last paragraph concerning refunds), 20, 21 and 22 of
34 the Use Tax Act and Section 3-7 of the Uniform Penalty and
35 Interest Act, that are not inconsistent with this paragraph, as
36 fully as if those provisions were set forth herein.

1 Whenever the Department determines that a refund should be
2 made under this paragraph to a claimant instead of issuing a
3 credit memorandum, the Department shall notify the State
4 Comptroller, who shall cause the order to be drawn for the
5 amount specified, and to the person named, in the notification
6 from the Department. The refund shall be paid by the State
7 Treasurer out of the Metro East Mass Transit District tax fund
8 established under paragraph (g) of this Section.

9 (d-5) (A) The county board of any county participating in
10 the Metro East Mass Transit District may authorize, by
11 ordinance, a referendum on the question of whether the tax
12 rates for the Metro East Mass Transit District Retailers'
13 Occupation Tax, the Metro East Mass Transit District Service
14 Occupation Tax, and the Metro East Mass Transit District Use
15 Tax for the District should be increased from 0.25% to 0.75%.
16 Upon adopting the ordinance, the county board shall certify the
17 proposition to the proper election officials who shall submit
18 the proposition to the voters of the District at the next
19 election, in accordance with the general election law.

20 The proposition shall be in substantially the following
21 form:

22 Shall the tax rates for the Metro East Mass Transit
23 District Retailers' Occupation Tax, the Metro East Mass
24 Transit District Service Occupation Tax, and the Metro East
25 Mass Transit District Use Tax be increased from 0.25% to
26 0.75%?

27 (B) Two thousand five hundred electors of any Metro East
28 Mass Transit District may petition the Chief Judge of the
29 Circuit Court, or any judge of that Circuit designated by the
30 Chief Judge, in which that District is located to cause to be
31 submitted to a vote of the electors the question whether the
32 tax rates for the Metro East Mass Transit District Retailers'
33 Occupation Tax, the Metro East Mass Transit District Service
34 Occupation Tax, and the Metro East Mass Transit District Use
35 Tax for the District should be increased from 0.25% to 0.75%.

36 Upon submission of such petition the court shall set a date

1 not less than 10 nor more than 30 days thereafter for a hearing
2 on the sufficiency thereof. Notice of the filing of such
3 petition and of such date shall be given in writing to the
4 District and the County Clerk at least 7 days before the date
5 of such hearing.

6 If such petition is found sufficient, the court shall enter
7 an order to submit that proposition at the next election, in
8 accordance with general election law.

9 The form of the petition shall be in substantially the
10 following form: To the Circuit Court of the County of (name of
11 county):

12 We, the undersigned electors of the (name of transit
13 district), respectfully petition your honor to submit to a
14 vote of the electors of (name of transit district) the
15 following proposition:

16 Shall the tax rates for the Metro East Mass Transit
17 District Retailers' Occupation Tax, the Metro East Mass
18 Transit District Service Occupation Tax, and the Metro East
19 Mass Transit District Use Tax be increased from 0.25% to
20 0.75%?

21 Name Address, with Street and Number.

22

23

24 (C) The votes shall be recorded as "YES" or "NO". If a
25 majority of all votes cast on the proposition are for the
26 increase in the tax rates, the Metro East Mass Transit District
27 shall begin imposing the increased rates in the District, and
28 the Department of Revenue shall begin collecting the increased
29 amounts, as provided under this Section. An ordinance imposing
30 or discontinuing a tax hereunder or effecting a change in the
31 rate thereof shall be adopted and a certified copy thereof
32 filed with the Department on or before the first day of
33 October, whereupon the Department shall proceed to administer
34 and enforce this Section as of the first day of January next

1 following the adoption and filing, or on or before the first
2 day of April, whereupon the Department shall proceed to
3 administer and enforce this Section as of the first day of July
4 next following the adoption and filing.

5 (D) If the voters have approved a referendum under this
6 subsection, before November 1, 1994, to increase the tax rate
7 under this subsection, the Metro East Mass Transit District
8 Board of Trustees may adopt by a majority vote an ordinance at
9 any time before January 1, 1995 that excludes from the rate
10 increase tangible personal property that is titled or
11 registered with an agency of this State's government. The
12 ordinance excluding titled or registered tangible personal
13 property from the rate increase must be filed with the
14 Department at least 15 days before its effective date. At any
15 time after adopting an ordinance excluding from the rate
16 increase tangible personal property that is titled or
17 registered with an agency of this State's government, the Metro
18 East Mass Transit District Board of Trustees may adopt an
19 ordinance applying the rate increase to that tangible personal
20 property. The ordinance shall be adopted, and a certified copy
21 of that ordinance shall be filed with the Department, on or
22 before October 1, whereupon the Department shall proceed to
23 administer and enforce the rate increase against tangible
24 personal property titled or registered with an agency of this
25 State's government as of the following January 1. After
26 December 31, 1995, any reimposed rate increase in effect under
27 this subsection shall no longer apply to tangible personal
28 property titled or registered with an agency of this State's
29 government. Beginning January 1, 1996, the Board of Trustees of
30 any Metro East Mass Transit District may never reimpose a
31 previously excluded tax rate increase on tangible personal
32 property titled or registered with an agency of this State's
33 government. After July 1, 2004, if the voters have approved a
34 referendum under this subsection to increase the tax rate under
35 this subsection, the Metro East Mass Transit District Board of
36 Trustees may adopt by a majority vote an ordinance that

1 excludes from the rate increase tangible personal property that
2 is titled or registered with an agency of this State's
3 government. The ordinance excluding titled or registered
4 tangible personal property from the rate increase shall be
5 adopted, and a certified copy of that ordinance shall be filed
6 with the Department on or before October 1, whereupon the
7 Department shall administer and enforce this exclusion from the
8 rate increase as of the following January 1, or on or before
9 April 1, whereupon the Department shall administer and enforce
10 this exclusion from the rate increase as of the following July
11 1. The Board of Trustees of any Metro East Mass Transit
12 District may never reimpose a previously excluded tax rate
13 increase on tangible personal property titled or registered
14 with an agency of this State's government.

15 (d-6) If the Board of Trustees of any Metro East Mass
16 Transit District has imposed a rate increase under subsection
17 (d-5) and filed an ordinance with the Department of Revenue
18 excluding titled property from the higher rate, then that Board
19 may, by ordinance adopted with the concurrence of two-thirds of
20 the then trustees, impose throughout the District a fee. The
21 fee on the excluded property shall not exceed \$20 per retail
22 transaction or an amount equal to the amount of tax excluded,
23 whichever is less, on tangible personal property that is titled
24 or registered with an agency of this State's government.
25 Beginning July 1, 2004, the fee shall apply only to titled
26 property that is subject to either the Metro East Mass Transit
27 District Retailers' Occupation Tax or the Metro East Mass
28 Transit District Service Occupation Tax.

29 (d-7) Until June 30, 2004, if a fee has been imposed under
30 subsection (d-6), a fee shall also be imposed upon the
31 privilege of using, in the district, any item of tangible
32 personal property that is titled or registered with any agency
33 of this State's government, in an amount equal to the amount of
34 the fee imposed under subsection (d-6).

35 (d-7.1) Beginning July 1, 2004, any fee imposed by the
36 Board of Trustees of any Metro East Mass Transit District under

1 subsection (d-6) and all civil penalties that may be assessed
2 as an incident of the fees shall be collected and enforced by
3 the State Department of Revenue. Reference to "taxes" in this
4 Section shall be construed to apply to the administration,
5 payment, and remittance of all fees under this Section. For
6 purposes of any fee imposed under subsection (d-6), 4% of the
7 fee, penalty, and interest received by the Department in the
8 first 12 months that the fee is collected and enforced by the
9 Department and 2% of the fee, penalty, and interest following
10 the first 12 months shall be deposited into the Tax Compliance
11 and Administration Fund and shall be used by the Department,
12 subject to appropriation, to cover the costs of the Department.
13 No retailers' discount shall apply to any fee imposed under
14 subsection (d-6).

15 (d-8) No item of titled property shall be subject to both
16 the higher rate approved by referendum, as authorized under
17 subsection (d-5), and any fee imposed under subsection (d-6) or
18 (d-7).

19 (d-9) (Blank). ~~If fees have been imposed under subsections~~
20 ~~(d-6) and (d-7), the Board shall forward a copy of the~~
21 ~~ordinance adopting such fees, which shall include all zip codes~~
22 ~~in whole or in part within the boundaries of the district, to~~
23 ~~the Secretary of State within thirty days. By the 25th of each~~
24 ~~month, the Secretary of State shall subsequently provide the~~
25 ~~Illinois Department of Revenue with a list of identifiable~~
26 ~~retail transactions subject to the .25% rate occurring within~~
27 ~~the zip codes which are in whole or in part within the~~
28 ~~boundaries of the district and a list of title applications for~~
29 ~~addresses within the boundaries of the district for the~~
30 ~~previous month.~~

31 (d-10) (Blank). ~~In the event that a retailer fails to pay~~
32 ~~applicable fees within 30 days of the date of the transaction,~~
33 ~~a penalty shall be assessed at the rate of 25% of the amount of~~
34 ~~fees. Interest on both late fees and penalties shall be~~
35 ~~assessed at the rate of 1% per month. All fees, penalties, and~~
36 ~~attorney fees shall constitute a lien on the personal and real~~

1 ~~property of the retailer.~~

2 (e) A certificate of registration issued by the State
3 Department of Revenue to a retailer under the Retailers'
4 Occupation Tax Act or under the Service Occupation Tax Act
5 shall permit the registrant to engage in a business that is
6 taxed under the tax imposed under paragraphs (b), (c) or (d) of
7 this Section and no additional registration shall be required
8 under the tax. A certificate issued under the Use Tax Act or
9 the Service Use Tax Act shall be applicable with regard to any
10 tax imposed under paragraph (c) of this Section.

11 (f) (Blank). ~~The Board may impose a replacement vehicle tax~~
12 ~~of \$50 on any passenger car, as defined in Section 1-157 of the~~
13 ~~Illinois Vehicle Code, purchased within the district area by or~~
14 ~~on behalf of an insurance company to replace a passenger car of~~
15 ~~an insured person in settlement of a total loss claim. The tax~~
16 ~~imposed may not become effective before the first day of the~~
17 ~~month following the passage of the ordinance imposing the tax~~
18 ~~and receipt of a certified copy of the ordinance by the~~
19 ~~Department of Revenue. The Department of Revenue shall collect~~
20 ~~the tax for the district in accordance with Sections 3-2002 and~~
21 ~~3-2003 of the Illinois Vehicle Code.~~

22 ~~The Department shall immediately pay over to the State~~
23 ~~Treasurer, ex officio, as trustee, all taxes collected~~
24 ~~hereunder. On or before the 25th day of each calendar month,~~
25 ~~the Department shall prepare and certify to the Comptroller the~~
26 ~~disbursement of stated sums of money to named districts, the~~
27 ~~districts to be those from which retailers have paid taxes or~~
28 ~~penalties hereunder to the Department during the second~~
29 ~~preceding calendar month. The amount to be paid to each~~
30 ~~district shall be the amount collected hereunder during the~~
31 ~~second preceding calendar month by the Department, less any~~
32 ~~amount determined by the Department to be necessary for the~~
33 ~~payment of refunds. Within 10 days after receipt by the~~
34 ~~Comptroller of the disbursement certification to the~~
35 ~~districts, provided for in this Section to be given to the~~
36 ~~Comptroller by the Department, the Comptroller shall cause the~~

1 ~~orders to be drawn for the respective amounts in accordance~~
2 ~~with the directions contained in the certification.~~

3 (g) Any ordinance imposing or discontinuing any tax under
4 this Section shall be adopted and a certified copy thereof
5 filed with the Department on or before June 1, whereupon the
6 Department of Revenue shall proceed to administer and enforce
7 this Section on behalf of the Metro East Mass Transit District
8 as of September 1 next following such adoption and filing.
9 Beginning January 1, 1992, an ordinance or resolution imposing
10 or discontinuing the tax hereunder shall be adopted and a
11 certified copy thereof filed with the Department on or before
12 the first day of July, whereupon the Department shall proceed
13 to administer and enforce this Section as of the first day of
14 October next following such adoption and filing. Beginning
15 January 1, 1993, except as provided in subsection (d-5) of this
16 Section, an ordinance or resolution imposing or discontinuing
17 the tax hereunder shall be adopted and a certified copy thereof
18 filed with the Department on or before the first day of
19 October, whereupon the Department shall proceed to administer
20 and enforce this Section as of the first day of January next
21 following such adoption and filing, or, beginning January 1,
22 2004, on or before the first day of April, whereupon the
23 Department shall proceed to administer and enforce this Section
24 as of the first day of July next following the adoption and
25 filing.

26 (h) Except as provided in subsection (d-7.1), the State
27 Department of Revenue shall, upon collecting any taxes as
28 provided in this Section, pay the taxes over to the State
29 Treasurer as trustee for the District. The taxes shall be held
30 in a trust fund outside the State Treasury. On or before the
31 25th day of each calendar month, the State Department of
32 Revenue shall prepare and certify to the Comptroller of the
33 State of Illinois the amount to be paid to the District, which
34 shall be the then balance in the fund, less any amount
35 determined by the Department to be necessary for the payment of
36 refunds. Within 10 days after receipt by the Comptroller of the

1 certification of the amount to be paid to the District, the
2 Comptroller shall cause an order to be drawn for payment for
3 the amount in accordance with the direction in the
4 certification.

5 (Source: P.A. 93-590; eff. 1-1-04.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.